

definition of “broadcaster” as “an entity that owns and operates a terrestrial AM or FM radio station that is licensed by the Federal Communications Commission.” Absent this amendment, the petitioners contended that noncommercial minimum fee broadcasters that were not educational webcasters were excluded from the new definition of “Eligible Minimum Fee Webcaster.”

The Judges find that the regulation, as amended on June 21, 2016, defines the new term “Eligible Minimum Fee Webcaster” too narrowly and therefore arguably excludes noncommercial minimum fee broadcasters, a category that the Judges had intended to include.

The Judges shall treat the Joint Motion as a petition for rulemaking and now propose to make the necessary changes to include minimum fee noncommercial broadcasters in the definition of “Eligible Minimum Fee Webcasters.” That inclusion shall ensure that noncommercial minimum fee broadcasters qualify fully for the relaxed reporting requirements in part 370.

How To Submit Comments

Interested parties must submit comments to only one of the following addresses. Unless responding by email, claimants must submit an original, five paper copies, and an electronic version on a CD or other portable memory device in Portable Document Format (PDF) that contains searchable, accessible text (not a scanned image of text). Commenters should conform all filed electronic documents to the Judges’ Guidelines for Electronic Documents posted on the Copyright Royalty Board Web site at http://www.loc.gov/crb/docs/Guidelines_for_Electronic_Documents.pdf. Email: crb@loc.gov; or

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue SE., Washington, DC 20559-6000. *Deliver to:* Congressional Courier Acceptance Site, 2nd Street NE., and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue SE., Washington, DC 20559-6000.

List of Subjects in 37 CFR 370

Copyright, Sound recordings.

Proposed Regulations

In consideration of the foregoing, the Copyright Royalty Judges propose to amend 37 CFR part 370 as follows:

PART 370—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

■ 1. The authority citation for part 370 continues to read as follows:

Authority: 17 U.S.C. 112(e)(4), 114(f)(4)(A).

■ 2. In § 370.4, in paragraph (b), revise the definition of “Eligible Minimum Fee Webcaster” to read as follows:

§ 370.4 Reports of use of sound recordings under statutory license for nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services and business establishment services.

* * * * *

(b) * * *

Eligible Minimum Fee Webcaster means a nonsubscription transmission service whose payments for eligible transmissions do not exceed the annual minimum fee established for licensees relying upon the statutory licenses set forth in 17 U.S.C. 112(e) and 114; and:

(i) Is a Licensee that owns and operates a terrestrial AM or FM radio station that is licensed by the Federal Communications Commission; or

(ii) Is directly operated by, or affiliated with and officially sanctioned by, a domestically accredited primary or secondary school, college, university, or other post-secondary degree-granting institution; and

(A) The digital audio transmission operations of which are, during the course of the year, staffed substantially by students enrolled in such institution;

(B) Is exempt from taxation under section 501 of the Internal Revenue Code, has applied for such exemption, or is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes; and

(C) Is not a “public broadcasting entity” (as defined in 17 U.S.C. 118(f)) qualified to receive funding from the Corporation for Public Broadcasting pursuant to the criteria set forth in 47 U.S.C. 396

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Dated: July 28, 2016.

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

[FR Doc. 2016-19097 Filed 8-8-16; 11:15 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 414, 417, 422, 423, 424, 425, and 460

[CMS-1654-CN]

RIN 0938-AS81

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2017; Medicare Advantage Pricing Data Release; Medicare Advantage and Part D Medical Low Ratio Data Release; Medicare Advantage Provider Network Requirements; Expansion of Medicare Diabetes Prevention Program Model; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a technical error in the proposed rule that appeared in the July 15, 2016 **Federal Register** (81 FR 46162-46476) entitled, “Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2017; Medicare Advantage Pricing Data Release; Medicare Advantage and Part D Medical Low Ratio Data Release; Medicare Advantage Provider Network Requirements; Expansion of Medicare Diabetes Prevention Program Model.”

DATES: The proposed rule published July 15, 2016 (81 FR 46162-46476) is corrected as of August 9, 2016.

FOR FURTHER INFORMATION CONTACT: Terri Plumb, (410) 786-4481, Gaysha Brooks, (410) 786-9649, or Annette Brewer (410) 786-6580.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016-16097 (81 FR 46162), the proposed rule entitled, “Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2017; Medicare Advantage Pricing Data Release; Medicare Advantage and Part D Medical Low Ratio Data Release; Medicare Advantage Provider Network Requirements; Expansion of Medicare Diabetes Prevention Program Model” (referred to hereafter as the “CY 2017 PFS proposed rule,”) there was a technical error that is identified and corrected in this correcting document. The correction is applicable as of August 9, 2016.

II. Summary of Errors in the Preamble

On page 46457 of the CY 2017 PFS proposed rule, we inadvertently stated that comments related to information collection requirements were due September 13, 2016. However, on page 46162, in the **DATES** section of the rule, we state that comments are due “no later than 5 p.m. on September 6, 2016.” Accordingly, we are correcting the date on page 46457 to align with the **DATES** section of the rule on page 46162.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** and provide a period for public comment before the provisions of a rule take effect. In addition, section 553(d) of the APA mandates a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements. Section 553(b)(B) of the APA authorizes an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest; and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA allows the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects a technical error in the CY 2017 PFS proposed rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed subject to notice and comment procedures in the CY 2017 PFS proposed rule. As a result, the correction made through this correcting document is intended to resolve an inadvertent error so that the rule accurately reflects the correct date for comments to be submitted in order to assure their consideration in the final rule.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause

to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the CY 2017 PFS proposed rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects the public comment period. Further, such procedures would be unnecessary, because we are not making any substantive revision to the proposed rule, but rather, we are simply correcting the **Federal Register** document to reflect the correct date by which public comments must be received in order to assure their consideration for the final rule. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

IV. Correction of Errors

In FR Doc. 2016–16097 (81 FR 46162), published July 15, 2016, on page 46457, in the first column, in the third paragraph, line 2, the phrase “September 13, 2016” is corrected to read “September 6, 2016”.

Dated: August 3, 2016.

Madhura Valverde,

*Executive Secretary to the Department,
Department of Health and Human Services.*

[FR Doc. 2016–19012 Filed 8–9–16; 8:45 am]

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SURFACE TRANSPORTATION BOARD

49 CFR Parts 1247 and 1248

[Docket No. EP 431 (Sub-No. 4)]

Review of the General Purpose Costing System; Supplement

AGENCY: Surface Transportation Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: Through this supplemental notice of proposed rulemaking (Supplemental NPR), the Surface Transportation Board (Board) is revising its proposal to eliminate the “make-whole adjustment” that is currently applied as part of our general purpose costing system, the Uniform Railroad Costing System (URCS). The notice of proposed rulemaking (NPR) in this proceeding, issued on February 4, 2013, explained that when disaggregating data and calculating system-average unit costs in Phase II, URCS does not fully take into account the economies of scale realized from larger shipment sizes, necessitating an adjustment in Phase III.

This subsequent adjustment in Phase III, referred to as the make-whole adjustment, produces a step function and does not appropriately reflect operating costs and economies of scale. To better address this problem and related issues, the Board is now proposing to modify certain inputs into Phase II of URCS and to modify certain cost calculations in Phase III of URCS in order to eliminate the make-whole adjustment. The Board is also proposing certain other related changes to URCS, including proposals for locomotive unit-miles (LUM) and train miles allocations, which would result in more appropriate rail movement costs.

DATES: Comments are due by October 11, 2016; replies are due by November 7, 2016.

ADDRESSES: Comments may be submitted either via the Board’s e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the “E-Filing” link on the Board’s Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 431 (Sub-No. 4), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT:

Allison Davis at (202) 245–0378. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: In 1989, the Board’s predecessor, the Interstate Commerce Commission (ICC), adopted URCS as its general purpose costing system. *Adoption of the Unif. R.R. Costing Sys. as a Gen. Purpose Costing Sys. for All Regulatory Costing Purposes*, 5 I.C.C.2d 894 (1989). The Board uses URCS for a variety of regulatory functions. URCS is used in rate reasonableness proceedings as part of the initial market dominance determination. At later stages of rate reasonableness proceedings, URCS is used in parts of the Board’s determination as to whether the challenged rate is reasonable, and, when warranted, the maximum rate prescription. URCS is also used to develop variable costs for making cost determinations in abandonment proceedings; to provide the railroad industry and shippers with a standardized costing model; to cost the Board’s Carload Waybill Sample to develop industry cost information; and to provide interested parties with basic