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Rules and Regulations

Federal Register
Vol. 53, No. 190
Friday, September 30, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[FV-88-129]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantities and Allotment Percentages for "Class 1" (Scotch) and "Class 3" (Native) Spearmint Oils for the 1988-89 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule invites comments on increasing the quantities of "Class 1" (Scotch) and "Class 3" (Native) spearmint oils produced in the Far West that may be purchased from, or handled for, producers by handlers during the 1988-89 marketing year which began June 1, 1988. This action is taken under the marketing order for spearmint oil produced in the Far West to promote orderly marketing conditions and was recommended by the Spearmint Oil Administrative Committee which is the agency responsible for local administration of the order.

EFFECTIVE DATE: Interim final rule effective June 1, 1988, through May 31, 1989. Comments which are received by October 31, 1988, will be considered prior to any finalization of this interim final rule.

ADDRESS: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference 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.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, F&V, AMS, USDA, Room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-5120.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 985 (7 CFR Part 985), as amended, regulating the handling of spearmint oil produced in the Far West. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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 nine handlers of Far West spearmint oil subject to regulation under the spearmint oil marketing order, and approximately 253 spearmint oil producers in the regulated area. Of the 253 producers, 170 producers hold "Class 1" oil (Scotch) allotment base and 143 producers hold "Class 3" oil (Native) allotment base. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of Far West spearmint oil may be classified as small entities.

The Spearmint Oil Administrative Committee (Committee), at its August 10, 1988, meeting, unanimously recommended that the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1988-89 marketing year be increased. The 1988-89 salable quantities and allotment percentages for those classes of oil were first published in the March 1, 1988, issue of the **Federal Register** (53 FR 6129). Subsequently, an interim final rule increasing the salable quantity and allotment percentage for Scotch spearmint oil for the 1988-89 marketing year was published in the August 18, 1988, issue of the **Federal Register** (53 FR 31281). Comments were to be received by September 19, 1988. That interim final rule increased the 1988-89 salable quantity for Scotch spearmint oil from 650,131 to 766,387 pounds and the allotment percentage from 39 to 46 percent.

This new interim final rule modifies the August 18, 1988, interim final rule by increasing the salable quantity of Scotch spearmint oil from 766,387 to 883,011 pounds and increasing the allotment percentage from 46 to 53 percent. In addition, this interim final rule increases the salable quantity of Native spearmint oil from 701,077 to 793,143 pounds and increases the allotment percentage from 38 to 43 percent. These revisions are issued pursuant to § 985.51(b) of the spearmint oil marketing order.

The salable quantity is the total quantity of a class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage (which is the salable quantity multiplied by 100 divided by the total of all allotment bases) to the producer's allotment base for that class of oil.

At its August 12, 1987, meeting, the Committee estimated trade demand for Scotch spearmint oil for the 1988-89 marketing year to be 761,063 pounds. A desirable carry-out figure of 0 pounds was adopted and, when added to the trade demand, resulted in a total supply needed of 761,063 pounds. The Committee estimated that 15,703 pounds would be carried-in on June 1, 1988. This amount was deducted from the total supply needed leaving 745,360 pounds as the salable quantity needed. This figure was further reduced by 100,000 pounds

which was the amount of Far West Scotch sales estimated to be filled by production from outside the production area (South Dakota). This left a salable quantity needed of 645,360 pounds. This quantity, divided by the total of all allotment bases of 1,667,002 pounds, resulted in 38.7 percent which was the computed allotment percentage. This figure was adjusted to 39 percent and established as the 1988–89 Scotch allotment percentage which resulted in a 1988–89 salable quantity of 650,131 pounds.

At the time of the July 6, 1988, Committee meeting, the 1988–89 salable percentage of 39 percent, when applied to the then current total allotment base of 1,666,059 pounds, gave a 1988–89 salable quantity of 649,763. Since all growers either produced their individual salable quantity or filled any deficiencies with reserve pool oil, the total salable quantity which was available, when this figure was combined with the actual carry-in on June 1, 1988, was 683,644 pounds, and was the total supply available for the 1988–89 marketing year. Carry-in on June 1, 1988, was 33,881 pounds of Scotch oil, higher than the Committee had estimated.

The Committee, at its July 6, 1988, meeting, recommended increasing the salable percentage by 7 percent, from 39 to 46 percent, thus making an additional 116,624 pounds available to the market. The basis for this recommendation was that when these additional pounds are added to the total supply available of 683,644 pounds, the resulting 800,268 pounds is between the five-year average sales of 758,682 pounds and the highest year of sales of 868,242 pounds. The Committee decided that this figure could meet immediate needs while assuring growers that a burdensome supply would not be put on the market. The Committee therefore recommended that the 1988-89 Scotch salable percentage be increased form 39 to 46 percent resulting in an increase in the salable quantity from 650,101 to 766,387 pounds. This figure added to the June 1, 1988, carry-in of 33,881 resulted in a total available supply of 800,268 pounds. An interim final rule was published in the August 18, 1988, issue of the **Federal Register** (53 FR 31281) which increased the salable quantity for Scotch spearmint oil from 650,101 to 766,387 pounds and increased the allotment percentage from 39 to 46 percent.

Current estimates indicate that a maximum of 50 percent of a normal crop will be harvested in the Midwest this year. The Committee expects the demand for Far West Scotch oil to increase as buyers of Midwest Scotch oil will substitute Far West oil for Midwest oil. This year, although it is early in the marketing year, a considerable amount of contracting of the 1988–89 crop, including the additional quantity of Scotch oil recommended at the July 6, 1988, meeting, has occurred. In order to meet the anticipated increase in trade demand, a higher salable quantity and allotment percentage for Scotch oil are required.

At their August 10, 1988, meeting, the Committee unanimously voted to make more Scotch spearmnt oil available to the market by increasing the salable quantity and allotment percentage. The Committee therefore recommended that the 1988–89 Scotch salable percentage be increased from 46 to 53 percent resulting in an increase in the salable quantity from 766,387 to 883,011 pounds. This figure added to the June 1, 1988, carry-in of 33,881 pounds results in a total available supply of 916,892 pounds. The following table summarizes the computations used in arriving at the Committee's recommendations.

	Recommendation August 12, 1987	Recommendation July 6, 1988	Recommendation August 10, 1988
	Pounds		
(1) Carry-in	15,703	33,881	33,881
(2) Quantity available	665,834	800,268	916,892
(3) Desirable carryout	0	0	0
(4) Salable quantity [1]	645,360	766,387	883,011
(5) Total Allotment bases for Scotch oil	1,667,002	1,666,059	1,666,059
(6) Allotment percentage (⅘ x 100)	39	46	53
(7) Adjusted salable quantity	650,101	766,387	883,011

[1] Salable quantity equals trade demand minus carry-in and minus an additional 100,000 pounds of Scotch oil expected to be available from South Dakota, which is outside the production area.

Thus, the Department has determined an allotment percentage of 53 percent should be established for Scotch spearmint oil for the 1988–89 marketing year. This percentage will make available 916,892 pounds of Far West Scotch spearmint oil to handlers of Far West spearmint oil.

At its August 12, 1987, meeting, the Committee estimated trade demand for Native spearmint oil for the 1988–89 marketing year to be 750,000 pounds. A desirable carry-out figure of 0 pounds was adopted and, when added to the trade demand, resulted in a total supply needed of 750,000 pounds. The Committee estimated that 50,000 pounds would be carried-in on June 1, 1988. This amount was deducted from the total supply needed leaving 700,000 pounds as the salable quantity needed. This quantity, divided by the total of all allotment bases of 1,844,940 pounds, resulted in 37.9 percent which was the computed allotment percentage. This figure was adjusted to 38 percent and established as the 1988–89 Native allotment percentage which resulted in a 1988–89 salable quantity of 701,077 pounds based on the estimated total base of 1,844,940 pounds.

The 1988–89 salable percentage of 38 percent, when applied to the revised total allotment base of 1,841,330 pounds, gives of 1988–89 salable quantity of 699,705 pounds. Since all growers will either produce their individual salable quantity or fill any deficiencies with reserve pool oil, the total salable quantity which will be available, when this figure is combined with the actual carry-in on June 1, 1988, is 703,107 pounds, and is the total supply available for the 1988–89 marketing year. Carry-in on June 1, 1988, was 3,402 pounds of Native oil, which was lower than the Committee had estimated.

This year, although it is early in the marketing year, a considerable amount of contracting of the 1988–89 crop has occurred due to the drought in the Midwest. Extensive surveys of growers and buyers lead the Committee to an estimate of 610,479 pounds as the amount of the 1988–89 total available supply that is committed to the market. This is the highest amount that has been sold or committed to be sold this time of the year. When the estimated amount that is committed to the market of 610,479 pounds is deducted from the total supply available of 703,107 pounds, the result of 92,628 pounds is the amount that is currently available to the market. This is considered by the Committee to be less than is desirable for this early in the marketing year. In order to meet the anticipated increase in trade demand, a higher salable quantity and allotment percentage for Native oil are required. The Committee recommended increasing the salable percentage by 5 percent, from 38 to 43 percent, thus making an additional 92,067 pounds (0.05 x 1,841,330 pounds which is the current total allotment bases for Native oil) available to the market. The Committee decided that this figure could meet immediate needs while assuring growers that a burdensome supply would not be put on the market. The Committee therefore recommended that the 1988–89 Native salable percentage

be increased from 38 to 43 percent resulting in an increase in the salable quantity from 699,705 to 791,772 pounds. This figure added to the June 1, 1988, carry-in of 3,402 pounds resulted in a total available supply of 795,174 pounds. The following table summarizes the computations used in arriving at the Committee's recommendations.

	Recommendation August 12, 1987	Recommendation August 10, 1988
	Pounds	
(1) Carry-in	50,000	3,402
(2) Quantity available	750,000	795,174
(3) Desirable carryout	0	0
(4) Salable quantity	701,077	791,772
(5) Total Allotment bases for Native oil	1,844,940	1,841,330
(6) Allotment percentage (4/5 x 100)	38	43

Thus, the Department has determined an allotment percentage of 43 percent should be established for Native spearmint oil for the 1988–89 marketing year. This percentage will make available 795,174 pounds of Far West Native spearmint oil in handlers of Far West spearmint oil.

Based on available information, the Administrator of the AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including that contained in the final rule published in the March 1, 1988, issue of the **Federal Register** (53 FR 6129) and the interim final rule published in the August 18, 1988, issue of the **Federal Register** (53 FR 31281), in connection with the initial establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils, the Committee's recommendation and other information, it is found that to amend § 985.208 (53 FR 6129) so as to change the salable quantities and allotment percentages for Scotch and Native spearmint oils, as set forth below, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined 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 action until 30 days after publication in the **Federal Register** because: (1) This action relieves restrictions on handlers by increasing the quantities of Scotch and Native spearmint oils that may be marketed immediately; and (2) it should be effective as soon as possible to enable handlers to satisfy current market needs for Scotch and Native spearmint oils.

List of Subjects in 7 CFR Part 985

Far West, Marketing agreements and orders, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is amended as follows:

PART 985—[AMENDED]

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 985.208 is amended by revising paragraphs (a) and (b) to read as follows:

Note: The following sections will not appear in the Code of Federal Regulations.

§ 985.208 Salable quantities and allotment percentages—1988–89 marketing year.

The salable quantity and allotment percentages for each class of spearmint oil during the marketing year which begins June 1, 1988, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 883,011 pounds and an allotment percentage of 53 percent.

(b) "Class 3" Oil—a salable quantity of 791,772 pounds and an allotment percentage of 43 percent.

* * * * *

September 26, 1988.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 88–22466 Filed 9–29–88; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1124

[DA–88–120]

Milk in the Oregon-Washington Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of September through November 1988 the requirement that at least 40 percent of a supply plant's receipts be delivered to pool distributing plants or be disposed of as fluid milk products on routes in the marketing area in order to qualify the supply plant for pooling under the Oregon-Washington order. The action was requested by a cooperative association that represents producers who supply a significant amount of milk for the market. The suspension is necessary to assure that the association's member dairy farmers who have regularly supplied the market's fluid needs will continue to share in the market's fluid milk sales.

EFFECTIVE DATE: September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 25, 1988; published September 1, 1988 (53 FR 33823).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that diary farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on September 1, 1988 (53 FR 33823) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment opposing the proposed suspension and one comment supporting it were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of September through November

1988 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1124.9(b), the words "not less than 40 percent in any month of September through November and" and "other."

Statement of Consideration

This action removes for the months of September through November 1988 the requirement that at least 40 percent of a supply plant's receipts be delivered to pool distributing plants or disposed of as fluid milk products on routes in the marketing area in order to qualify the supply plant for pooling. The suspension was requested by Tillamook County Creamery Association (TCCA), a cooperative association that represents a large number of the market's producers.

The cooperative stated that conversion of a significant number of TCCA's manufacturing grade producers to Grade A on July 1, 1988, increased the cooperative's Grade A milk supply without a comparable increase in milk sales. TCCA stated that as a result of this increase it will be impossible for the cooperative to meet the 40-percent delivery requirement during the months of September through November 1988 without inefficient, costly, and quality-reducing milk transfers to fluid milk plants in the market. The cooperative stated that without the suspension it would be forced to move milk in an uneconomic and inefficient manner during the months of September through November 1988 solely to maintain the pool status of its producers who historically have supplied the fluid needs of the Oregon-Washington marketing area.

Curly's Dairy of Salem, Oregon, opposed the suspension, but stated no basis for its opposition. Comments supporting the suspension were filed on behalf of Northwest Dairymen's Association (NDA), a cooperative association representing a substantial proportion of the producers whose milk is pooled under the Oregon-Washington milk order. NDA anticipated that its member milk pooled on the market would not be affected by the proposed suspension, but otherwise gave no reason for supporting the suspension action.

Although both milk production and Class I sales in the Oregon-Washington market increased during the first 8 months of 1988 over 1987 levels; it appears that the increase in milk production was slightly greater than the increase in Class I sales. Since the provisions to be suspended were also suspended for the months of October and November 1987 with no indication of ill effect on the ability of distributing plants to attract an adequate supply of milk, there is no reason to expect any such difficulty during the period of suspension.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing in the marketing area in that without extensive unnecessary and expensive hauling and handling, substantial quantities of milk from producers who regularly supply the market would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for marking this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following provisions in § 1124.9(b) of the Oregon-Washington order are hereby suspended for the months of September through November 1988:

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. The authority citation for 7 CFR Part 1124 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1124.9 [Amended]

2. In § 1124.9(b), the words "not less than 40 percent in any month of September through November and" and "other" are suspended.

Signed at Washington, DC, on September 26, 1988.

Kenneth A. Gilles,

Assistant Secretary of Agriculture, Marketing and Inspection Services.

[FR Doc. 88–22560 Filed 9–29–88; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–ANE–13; Amdt. 39–6009]

Airworthiness Directives; Hamilton Standard 14SF–5 and 14SF–7 Propellers

August 26, 1988.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) and requires inspections for cracks and replacement of the plastic "Rynite" blade retaining rings on Hamilton Standard 14SF–5 and 14SF–7 propellers. The AD is needed to prevent failure of the blade retaining rings, which could result in loss of the ring and severe damage to the blade retention system, with possible propeller unbalance. This AD retains the inspections of AD 87–10–05, Amendment 39–5609 (52 FR 17551; May 11, 1987), until required replacement of the plastic "Rynite" rings with aluminum rings is accomplished. This amendment will eliminate the need for repetitive inspections of the plastic rings.

DATES: *Effective:* October 31, 1988.

Compliance: As required in the body of the AD.

Incorporation by Reference: Approved by the Director of the **Federal Register** as of October 31, 1988.

ADDRESSES: The applicable alert service bulletins (ASB's) may be obtained from Hamilton Standard Division of United Technologies Corporation, Windsor Locks, Connecticut 06096

Copies of the ASB's are contained in the Rules Docket, Docket Number 87–ANE–13, in the Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Francis X. Walsh, Systems and Propulsion Branch, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7066.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD which requires inspections for

cracks, and replacement of the "Rynite" plastic rings by July 31, 1989, on certain Hamilton Standard 14SF–5 and 14SF–7 propellers, was published in the **Federal Register** on April 26, 1988 (53 FR 14813).

This amendment supersedes AD 87–10–05, Amendment 39–5609 (52 FR 17551; May 11, 1987), which requires an initial and repetitive visual inspections for cracks, and replacement when needed, of the plastic "Rynite" blade retaining rings on Hamilton Standard 14SF–5 and 14SF–7 propellers.

The FAA has determined that replacement of the plastic "Rynite" blade retaining rings with aluminum retaining rings would eliminate the need for repetitive visual inspections of the plastic "Rynite" rings for cracks. Consequently, this AD supersedes AD 87–10–05 to require replacement of the plastic "Rynite" blade retaining rings.

The proposal was prompted by reports of at least 21 cracked or broken retaining rings, which can result in loss of the retaining ring and possible damage to the blade retention system leading to severe vibration.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received and no objections were proposed, therefore, the proposal is hereby adopted without change.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et seq.), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this regulation involves approximately 80 aircraft, and will have negligible cost to the operators. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (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 copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 The following new airworthiness directive (AD) which supersedes AD 87–10–05, Amendment 39–5609 (52 FR 17551; May 11, 1987), as follows:

Hamilton Standard: Applies to Hamilton Standard Model 14SF–5 and 14SF–7 propellers equipped with plastic "Rynite" retaining rings, P/N 785540, installed on, but not limited to, DeHavilland Dash 8 and Aerospatiale/Aeritalia ATR–42 aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent loss of the plastic "Rynite" blade retaining rings, P/N 785540, and severe damage to the blade retention system with resultant propeller unbalance, accomplish the following:

(a) Within the next 50 hours time in service after May 21, 1987, and thereafter at intervals not to exceed 200 hours time in service, until accomplishment of paragraph (c), inspect the plastic "Rynite" blade retaining rings, P/N 785540, on all four blades in accordance with Hamilton Standard Alert Service Bulletin (ASB) 14SF–61–A21, Revision 2, dated March 27, 1987.

(b) If any evidence of cracks is discovered as a result of an inspection required by paragraph (a), prior to further flight remove from service both halves of blade retaining rings and replace with new or serviceable retaining ring halves in accordance with Hamilton Standard ASB 14SF–61–A21, Revision, 2, dated March 27, 1987, or accomplish paragraph (c) below prior to further flight.

(c) Replace, not later than July 31, 1989, the plastic "Rynite" blade retaining rings, P/N 785540, with aluminum blade retaining rings, P/N 794345, on all four blades in accordance with Hamilton Standard Service Bulletin 14SF–61–17, Revision, 1, dated October 1, 1987.

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

(f) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, the Manager, Boston Aircraft Certification Office, may adjust the compliance time specified in this AD.

Hamilton Standard ASB 14SF–61–A21, Revision 2, dated March 27, 1987, and ASB 14ST–61–17, Revision 1, dated October 1, 1987, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Hamilton Standard Division of United Technologies Corporation, Windsor Locks, Connecticut 06096. These documents may also be examined at the Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Docket 87–ANE–13, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. This amendment supersedes AD 87–10–05, Amendment 39–5609, (52 FR 17551; May 11, 1987).

This amendment becomes effective on October 31, 1988.

Issued in Washington, DC, on August 22, 1988.

Thomas E. McSweeny,

Acting Director, Office of Airworthiness.

[FR Doc. 88–22421 Filed 9–29–88; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

Changes to NASA Grant and Cooperative Agreement Handbook

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Grant and Cooperative Agreement Handbook is amended to (1) establish criteria for grant officer appointments, (2) maintain consistency with the Federal Acquisition Regulation (FAR) and NASA FAR Supplement (NFS) unsolicited proposal regulations and, (3) incorporate the new governmentwide suspension and debarment regulations.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Chief, Regulations Development Branch, Procurement Policy Division (Code HP), Office of Procurement, NASA, Washington, DC 20546, Telephone: (202) 453–8923.

SUPPLEMENTARY INFORMATION:

Background

This rule was published in a notice of proposed rulemaking in the **Federal Register** of August 9, 1988 (53 FR 29913). No public comment was received; therefore, this final rule is published as proposed. It will also be included in the next modification to the NASA Grant and Cooperative Agreement Handbook (NHB 5800.1). The Handbook is available to the public by subscription from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. It is not available in whole or in part directly from NASA.

Impact

This rule has been reviewed by the Office of Management and Budget (OMB) under the provisions of Executive Order 12291. NASA certifies that these changes will not have a significant economic affect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980.

List of Subjects in 14 CFR Part 1260

Grants.

L.E. Hopkins,

Deputy Assistant Administrator for Procurement.

PART 1260—[AMENDED]

1. The authority citation for 14 CFR Part 1260 continues to read as follows:

Authority: Pub. L. 97–258, 31 U.S.C. 6301 et seq.

Subpart 1—General

§ 1260.107 [Amended]

2. In § 1260.107, paragraph (f) is revised to read as follows:

* * * * *

(f) *Grants officer.* A qualified NASA employee who has been delegated the authority to award and administer grants and cooperative agreements.

* * * * *

3. Section 1260.110 is added to read as follows:

§ 1260.110 Grants officer qualifications.

Procurement officers shall (1) establish installation requirements for experience, education, and training of grants officers and (2) develop procedures to ensure that only individuals meeting these requirements are designated as grants officers.

Subpart 2—Basic Policies

§ 1260.202 [Amended]

4. Section 1260.202 is amended by revising paragraphs (b)(1) through (4) and (c) to read as follows:

* * * * *

(b) *Unsolicited proposals*—(1) *Applicable regulations.* FAR, 48 CFR 15.5 and the NFS, 48 CFR 1815.5, apply to unsolicited proposals which result in grants and cooperative agreements, unless otherwise noted in this Paragraph 1260.202(b).

(2) *Preliminary discussions.* In accordance with FAR, 48 CFR 15.504, contact with agency technical personnel prior to proposal submission is permissible and is encouraged to determine if preparation of a formal submission is warranted. Such discussions, confined to the limited objectives of conveying to the potential offeror an understanding of the agency mission and needs relative to the type of effort contemplated, do not jeopardize the unsolicited status of any subsequently submitted proposal.

(3) *Proposal validity.* If an invalid proposal is received for funding action, the grants officer should give the institution an opportunity to provide the missing information and should notify the sponsoring technical office of any resultant substantive changes. In the event excessive delay or possible cancellation of the action is contemplated, the sponsoring office should be notified. In determining proposal validity, note that a broad agency announcement shall not be considered to be an "acquisition requirement" as the term is used for FAR, 48 CFR 15.507(a)(2).

(4) *Renewal proposals.* NFS, 48 CFR 1815.505–70 does not apply. Proposals for renewal of ongoing projects generally emphasize changes since the original award was made and may be simpler than proposals for new efforts. For renewal purposes, solicited proposals received in response to NASA Research Announcements (NRA) may be used to fulfill the unsolicited proposal requirement (see section 1260.402 and NFS, 48 CFR 1835.016–70).

* * * * *

(c) *Solicited proposals.* As a result of the instrument section criteria specified by Pub. L. 97–258 and NASA's implementation in section 1260.203, the award of a grant or cooperative agreement based on a solicited proposal may be appropriate. Grants and cooperative agreements based on solicited proposals are most likely to result from proposals submitted in response to broad agency announcements, such as NRAs or "Announcements of Opportunity" (see NFS, 48 CFR 1870.103).

5. Section 1260.210 is added to read as follows:

§ 1260.210 Debarment and suspension.

Grant officers will follow the procedures in NMI 5101.30, Delegation of Authority—Nonprocurement Debarment and Suspension Under Grants, Cooperative Agreements and other Nonprocurement Transactions, in implementation of 14 CFR 1265. Before making an award, the grants officer shall ensure that the participant's status has been verified (14 CFR 1265.505 (d) and (e)) and the certification requirement at 14 CFR 1265.510 has been met. If the required certification has not been submitted with the proposal, the grants officer shall obtain the certification before proceeding.

Subpart 4—Research Grant and Cooperative Agreement Provisions

§ 1260.420 [Amended]

6. Section 1260.420 is amended as set forth below:

a. In paragraph (d), the phrase "(b), above, shall" is revised to read "(b), (e), and (f) of this section shall".

b. Paragraph (g) is added to read as follows:

* * * * *

(g) Effective October 1, 1988, the following provision shall be appended, as a special condition, to all grants and cooperative agreements entered into after that date (pending its inclusion in NASA Form 1463A, Provisions for Research Grants and Cooperative Agreements):

Debarment and Suspension (Oct 1988)

NASA grants and cooperative agreements, except for those to foreign institutions, are subject to the provisions of 14 CFR Part 1265, Governmentwide Debarment and Suspension (Nonprocurement). The certification required by that regulation must also accompany extension proposals.

[FR Doc. 88–22439 Filed 9–29–88; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D 88-59]

List of Countries Included as Parties to the UNESCO Convention on Cultural Property; Bangladesh, et al.

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends § 12.104b of the Customs Regulations (19 CFR 12.104b), by adding Bangladesh, Burkina Faso, Byelorussian SSR, Mali, Ukrainian SSR, and Union of Soviet Socialist Republics to the list of countries identified as signatories to the UNESCO Convention on Cultural Property. As a party to the Convention, the United States actively participates in efforts to eliminate illicit traffic in cultural property, that is items of importance for archaeology, prehistory, history, literature, art or science. Countries become eligible for inclusion in the list by ratifying, accepting, or acceding to the 1970 UNESCO Convention. Upon receipt of notification that a country has so ratified, accepted, or acceded to the Convention, Customs accords that country all rights and privileges under the Convention, and adds its name to the list of signatory countries in order to provide the public notification of this fact.

EFFECTIVE DATE: September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Samuel Orandle, Commercial Rulings Division (202–566–5765); Operational Aspects: Louis Alfano, Trade Operations (202–566–8651); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

SUPPLEMENTARY INFORMATION:

Background

Beginning in the late 1960's, the U.S. began participating, with other nations, in negotiations sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO), addressing the problem of illicit international trade in cultural property. Cultural property was defined as property which, on religious or secular grounds, is specifically designated by a country as being important in the archaeology, prehistory, history, literature, art, or science of that country.

These negotiations resulted in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Imports, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub. L. 97–446, 96 Stat. 2329 at 2350).

In order to effectively implement the provisions of this Act, the Customs Service amended Part 12, Code of Federal Regulations, by adding a new title, "Cultural Property", which was designated §§ 12.104–12.104i. Section 12.104b of that title listed the State Parties to the Convention, and indicated that it would be amended from time to time as additional States either became parties to the Convention or withdrew from it.

Additional State Parties

The Cultural Heritage Division of UNESCO in Paris has advised that several additional countries have become state parties to the 1970 UNESCO Convention on Cultural Property. Accordingly, we are amending the regulations to reflect these additional countries, and the date of entry into force for each of those State Parties.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement and involves a matter in which the majority of the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d).

The Regulatory Flexibility Act

This document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 et seq.), or nay other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in section 1 (b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs inspection and duties, Imports, Exports.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote. 11, Tariff Schedules of the United States), 1624. * * * § 12.104 et seq., also issued under 19 U.S.C. 2612.

2. Section 12.104b, Customs Regulations (19 CFR 12.104b), is amended by inserting, in appropriate alphabetical order, the following State Parties, and the date of entry into force for each State Party:

§ 12.104b State Parties to the Convention

State party	Date of entry into force
* * * * *	
Bangladesh	Mar. 9, 1988.
* * * * *	
Burkina Faso	July 7, 1987.
Byelorussian SSR	July 28, 1988.
* * * * *	
Mali	July 6, 1987.
* * * * *	
Ukrainian SSR	July 28, 1988.
Union of Soviet Socialist Republics.	Do.
* * * * *	

William von Raab,

Commissioner of Customs.

Approved: September 13, 1988.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 88–22559 Filed 9–29–88; 8:45 am]

BILLING CODE 4820–02–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[AID Reg. 1]

Conditions Governing Eligibility of Procurement Transactions for AID Financing

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: AID Regulation 1 concerning eligibility of procurement transactions for AID financing (53 FR 31318) is being amended to correct an editorial error, reinstating two subparagraphs inadvertently omitted in the last amendment of Regulation 1.

EFFECTIVE DATE: September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen J. O'Hara, M/SER/PPE, Room 1600I, SA–14, Agency for International Development, Washington, DC 20523. Telephone (703) 875–1534.

SUPPLEMENTARY INFORMATION: The Agency has determined that this rule will not have a significant economic impact on a substantial number of small organizational units and small government jurisdictions. This rule is not a major rule for purposes of Executive Order 12291 and has been submitted to OMB in accordance with the Executive Order.

List of Subjects in 22 CFR 201

Commodity procurement, Foreign aid, Grant programs—foreign relations, Loan programs—foreign relations.

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

1. The authority citation in Part 201 continues to read as follows:

Authority: 22 U.S.C. 2381.

Subpart B—Conditions Governing the Eligibility of Procurement Transactions for A.I.D. Financing

2. Paragraph (b)(2)(iii) of § 201.13 is amended by adding paragraphs (b)(2)(iii) (*b*) and (*c*) to read as follows:

§ 201.13 Eligibility of delivery services.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(*b*) When service by eligible flag air carriers is unavailable, any code 935 flag air carrier may be used.

(*c*) In the event the supplier selects an air carrier other than an eligible flag carrier for international air transportation, it must include a certification on invoices which include such transportation costs as follows:

Certification of Unavailability of Eligible Flag air Carriers

I hereby certify that transportation service by eligible flag air carriers was unavailable for the following reason(s): (state reason(s)).

* * * * *

Date: August 29, 1988.

John F. Owens,

Associate Assistant to the Administrator for Management.

[FR Doc. 88–22276 Filed 9–29–88; 8:45 am]

BILLING CODE 6116–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2644

Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another Federal agency. The effect of this amendment is to add to the appendix of that regulation a new interest rate to be effective from October 1, 1988, to December 31, 1988.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202–778–8850 (202–778–8859 or TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under section 4219(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("the PBGC") promulgated a final regulation on Notice and Collection of Withdrawal Liability. That regulation, codified at 29 CFR Part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default, or to credited by plans on overpayments of withdrawal liability. The regulation allows plans to set rates, subject to certain restrictions. Where a plan does not set the interest rate, §2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Because the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to Part 2644. This amendment adds to this appendix the interest rate of 10 percent, which will be effective from October 1, 1988, through December 31, 1988. This rate represents an increase of 1 percent from the rate in effect for the third quarter of 1988. See 53 FR 24933 (July 1, 1988). This rate is based on the prime rate in effect on September 15, 1988.

The appendix to 29 CFR Part 2644 does not prescribe interest rates under the regulation; the rates prescribed in the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2644

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2644 of Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for Part 2644 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3) and 1399(c)(6).

Appendix A to Part 2644—[Amended]

2. Appendix A is amended by adding to the end of the table therein a new entry as follows:

From	To	Date of quotation	Rate (percent)
*	*	*	*
10/01/88.....	12/31/88	9/15/88	10.00

Issued at Washington, DC, on this 26th day of September 1988.

Kathleen P. Utgoff,
Executive Director.

[FR Doc. 88-22465 Filed 9-29-88; 8:45 am]
BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3451-9]

Approval and Promulgation of State Implementation Plans; Colorado; Revisions to Regulation No. 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves a revision to the Colorado Air Quality Control Commission Regulation No. 1 (a regulation to control smokes, particulates and sulfur dioxides) which was submitted by the Governor on May 8, 1986. EPA proposed to approve this regulation on April 8, 1987, (52 FR 11287). No comments were received. This revision requires that all major sources emitting 1,000 tons per year or more of carbon monoxide (CO) in nonattainment areas, or any source which can be expected to emit 1,000 tons or more of CO during any future 12-month period, use Reasonably Available Control Technology (RACT) to reduce emissins of CO to 0.050 or less percent by volume of gas. This measure is aimed at major sources in and around the Denver Metropolitan Area, and an EPA approval allows for federal enforcement of the measure.

EFFECTIVE DATE: September 30, 1988.

ADDRESSES:

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202-2405.
Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Dale Wells, Air Programs Branch, Environmental Protection Agency, Denver Place, Suite 500, 999 18th Street, Denver, Colorado, 80202-2405, (303) 293-1773 FTS 564-1773.

SUPPLEMENTARY INFORMATION: A revision to Colorado Regulation No. 1 was submitted pursuant to Section 172(b)(3) of the Clean Air Act, 42 U.S.C. 7502(b)(3), which requires that the SIP for a nonattainment area require such reduction in emissions from existing sources as may be obtained through the adoption of RACT. EPA's policy implementing section 172 requires that in nonattainment areas for CO, RACT be applied to all sources with the potential to emit more than 1,000 tons per year of CO. (See 46FR7182, January 22, 1981.)

The only sources of CO greater than 1,000 tons per year in nonattainment areas in Colorado are fluidized-bed catalytic cracking units (FCC) at two petroleum refineries. The Colorado Regulation mandates compliance by the sources as to reduce CO emissions to 0.05% or less of the volume of gas by January 30, 1987. The effect of this action is to ensure federal enforceability of the regulation.

The revised Colorado regulation applies to any source which has emitted or "can reasonably be expected to emit" 1,000 or more tons of CO per year. EPA understands the latter phrase to refer to sources with "potential emissions" of 1,000 tons or more per year as the term is used in EPA's January 22, 1981, policy statement, i.e., sources that could emit 1,000 tons or more per year when operating at full capacity without emission control measures. EPA has received a letter dated July 14, 1988, from the State of Colorado Air Pollution Control Division which clarifies that they interpret the phrase "can reasonably be expected to emit" as potential to emit.

The regulation allows for a demonstration by the source of an appropriate method that will allow monitoring for compliance. This demonstration must follow New Source Performance Standards guidelines for FCC units contained in 40 CFR Part 60, Appendix B, Performance Specification 4. This regulation requires a compliance test to determine whether or not continuous emission monitoring (CEM) is applicable. If the CO emissions are 250 ppm or less, CEM will not be mandatory. Otherwise, the source must install, calibrate, certify, and maintain a CEM system for CO.

Under section 307(b)(1) of the Clean Air Act (CAA), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 1988. This action may not be challenged later in proceedings to enforce its requirements (See CAA section 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, and Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of Colorado was approved by the Director of the Federal Register on July 1, 1982.

Date: September 16, 1988.

Lee Thomas,
Administrator.

Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart G—Colorado

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.320 is amended by adding paragraph (c)(42) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(42) Revisions to Air Pollution Control Regulation No. 1, requiring reasonably available control technology RACT for carbon monoxide control on petroleum refinery catalytic cracking units were submitted by the Governor on May 8, 1986.

(i) *Incorporation by reference.*

(A) Revisions to Section IV., paragraphs IV.A., IV.D.2. and IV.E., and Section VII., Regulation No. 1, emission control regulations for particulates, smokes, carbon monoxide, and sulfur oxides for the State of Colorado requiring CEM and RACT on petroleum refinery catalytic cracking units in the metro Denver area effective on April 30, 1986.

[FR Doc. 88-21770 Filed 9-29-88; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 62

[FRL-3457-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants in Georgia; Total Reduced Sulfur (TRS) From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the compliance schedule portion of Georgia's 111(d) plan for the control of total reduced sulfur (TRS) emissions from kraft pulp mills. This portion of the plan was submitted on June 3, 1988, by the Georgia Environmental Protection Division (EPD), and stipulates that the compliance schedules shall go into effect on September 1, 1988, or when the rule is approved by EPA, whichever is later, and provides for final compliance within 46 months of the start date. Today's approval covers the only part of the original plan which was not approved on November 10, 1982 (47 FR 50868).

DATE: This action will be effective November 29, 1988, unless notice is received by October 31, 1988, that adverse or critical comments will be submitted.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Georgia Department of Natural Resources, Environmental Protection Division, Floyd Towers East, Room 1162, 205 Butler Street SE., Atlanta, Georgia 30334

FOR FURTHER INFORMATION CONTACT: Mr. Gregg Worley of the Air Programs Branch of EPA Region IV at the above address and telephone number (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On May 22, 1979 (44 FR 29828), EPA announced the availability of a final guideline document for the control of TRS from existing kraft pulp mills. The notice initiated the requirement that states submit plans for the control of this pollutant on or before February 22, 1980, and on April 14, 1980, the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources submitted such a plan. However, on February 17, 1981, EPD requested EPA to return their plan for reevaluation and on March 24, 1981, EPA returned the plan.

EPD submitted a revised plan on January 8, 1982, which modified the compliance schedule submitted with the April 14, 1980, plan. The revised plan differed from EPA's guideline in several respects, but the only unapprovable difference lay in the compliance schedules.

The EPD rule did not require sources to begin on compliance schedules until after notification by the Director. This notification was to take place "* * * when ten (10) states have U.S. EPA approved TRS Plans covering at least 25% of the applicable kraft mills in the country and the Director has determined that their implementation schedule is consistent with Georgia's implementation schedule."

EPA felt that the vagueness in the notification date made the compliance schedule portion of the 111(d) plan unapprovable. After proposing action on Georgia's TRS plan (47 FR 26169) and considering public comment, EPA approved the 111(d) plan on November 10, 1982 (47 FR 50869) except for the procedure for starting compliance schedules. EPA committed to take action on this portion of the plan when EPD adopted specific dates for compliance schedules.

On June 3, 1988, the Georgia EPD submitted to EPA Region IV a revised compliance schedule with "* * * starting dates to commence on September 1, 1988, or on the date which EPA grants final approval of the TRS compliance schedule, whichever is later." Also included in this submittal was an emission inventory for the affected kraft pulp mills in the State.

The compliance schedule submitted by EPD differs in its format from the compliance schedules suggested in EPA's guideline document. While the guideline document specifies design, approval, and installation dates on a unit-specific basis, the Georgia plan specifies an overall timeframe for compliance for each plant as a whole. The Georgia timeframe sets increments of progress for planning and application for permits, contracts or purchase orders, on-site construction, and final compliance with requirements as specified in 40 CFR 60.24(e)(1). The deadline for final compliance is set at 46 months. This deadline, however, does not mean that all affected plants will take 46 months to come into compliance. Only the amount of time that is reasonably needed for a particular type of equipment installation will be granted in permits issued by EPD. Consequently, the time to reach compliance may be shorter than the maximum 46 months.

The Georgia EPD also provides that a source may request that an alternate schedule for compliance be implemented, provided that the alternate schedule is approved by both the Georgia EPD and EPA. An alternate schedule may result in an actual compliance timeframe that extends beyond the maximum 46 months stipulated in the Georgia regulations.

Final Action

Based on the foregoing, EPA hereby approves Georgia's 111(d) plan for TRS from Kraft Pulp Mills, specifically the previously unapproved procedure for starting compliance schedules and the timeframe set for final compliance.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective November 29, 1988, unless, within 30 day of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective November 29, 1988.

Under 5 U.S.C. section 605(b), I certify that this revision will not have significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62:

Administrative practice and procedure, Air pollution control, Paper and paper products industry, Fluoride, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur.

Dated: September 26, 1988.

Lee M. Thomas,

Administrator.

Part 62 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

PART 62—[AMENDED]

Supbart L—Georgia

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 62.2600 is amended by adding paragraph (b)(3) to read as follows:

§ 62.2600 Identification of plan.

* * * * *

(b) * * *

(3) A compliance schedule for sources subject to the plan for the control of total reduced sulfur emissions from existing kraft pulp mills and a starting date for such rule, submitted on June 3, 1988.

* * * * *

§ 62.2604 [Removed and reserved]

3. Section 62.2604, Compliance schedules, is removed and reserved.

[FR Doc. 88–22491 Filed 9–29–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[SW–FRL–3455–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of Final Rules.

SUMMARY: On July 29, 1988, a panel of the United States Court of Appeals for the District of Columbia Circuit remanded two final rules of the Environmental Protection Agency. These rules denied petitions for exclusion of hazardous wastes ("delisting petitions") under section 3001(f) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921(f), submitted by LTV Steel Company and Bethlehem Steel Corporation. Following the Court of Appeals' decision in *McLouth Steel Products Corp.* v. *Thomas*, 838 F.2d 1317 (D.C. Cir. 1988), the Agency and Bethlehem Steel petitioned the Court to remand these rules. This notice withdraws the Agency's final rules appearing at 51 FR 41317 (November 14, 1986) and 51 FR 41620 (November 18, 1986) regarding the petitions received from LTV Steel and Bethlehem Steel for exclusion of wastes under 40 CFR §§ 260.20 and 260.22.

EFFECTIVE DATE: These withdrawals are effective as of September 30, 1988.

ADDRESSES: The RCRA regulatory docket for this notice is located at the U.S. Environmental Protection Agency, 401 M Street SW., (sub-basement), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The docket for this notice contains all materials included in the original dockets compiled for the Agency's previously published proposed and final rules regarding Bethlehem Steel and LTV Steel. The reference number for the Bethlehem Steel docket is "F–86–BSDF–FFFFF". The reference number for the LTV docket is "F–86–LVDF–FFFF". The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For information concerning the remand of the Agency's final decisions, contact Josh Sarnoff, Office of General Counsel (LE–132S), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–7706. For technical information concerning the Agency's review of Bethlehem's and LTV's delisting petitions, contact Scott Maid, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4783.

SUPPLEMENTARY INFORMATION:

I. Withdrawal of Final Rules

On November 14 and 18, 1986, the Environmental Protection Agency (EPA or Agency) denied final exclusions, pursuant to the Resource Conservation and Recovery Act (RCRA) section 3001(f), 42 U.S.C. 6921(f), and to 40 CFR 260.20 and 260.22, to LTV Steel Company and Bethlehem Steel Corp., respectively, for their wastewater treatment sludges generated from electroplating operations (currently listed as EPA Hazardous Waste No. F006). LTV Steel's waste is generated at its facility in East Chicago, Indiana. See 51 FR 41317 (November 14, 1986). Bethlehem Steel's waste is generated at its Chesterton, Indiana facility. See 51 FR 41620 (November 18, 1986). In reaching these decisions, EPA applied a mathematical Vertical and Horizontal Spread (VHS) model to predict the concentrations of hazardous constituents that might escape from these wastes into ground water. On February 12, 1987, LTV Steel and Bethlehem Steel filed separate petitions for review of these rulemakings, numbers 87–1074 and 87–1075 respectively, with the United States Court of Appeals for the District of Columbia Circuit challenging the Agency's actions on numerous grounds.

On February 5, 1988, a unanimous panel of the Court of Appeals reached a decision on a similar challenge to EPA's use of the VHS model. The Court held in *McLouth Steel Products Corp.* v. *Thomas*, 838 F.2d 1317, 1319 (D.C. Cir. 1988), that the Agency had given "the effect of a rule to its 'VHS model' * * * without having exposed the model to the comment opportunities required for rules by the Administrative Procedure Act, 5 U.S.C. 553 (1982)." Thus, the Court of Appeals remanded to EPA the rule denying McLouth Steel's delisting petition.

In light of the decision in *McLouth Steel Products Corp.*, on March 18, 1988, Bethlehem moved to the Court of Appeals to remand and to vacate EPA's determination to deny Bethlehem Steel's delisting petition. EPA did not oppose Bethlehem Steel's motion to remand but did oppose the motion to vacate. On March 28, 1988, EPA voluntarily moved the Court of Appeals to remand its determination to deny LTV Steel's delisting petition. LTV Steel did not respond to EPA's motion. On July 29, 1988, the Court of Appeals granted EPA's unopposed motion in *LTV Steel*, denied Bethlehem Steel's motion to vacate, and granted in part Bethlehem Steel's motion to remand "for further administrative proceedings consistent with [the] decision in *McLouth Steel Products Corp.* v. *Thomas* * * *."

The Agency is today withdrawing its final decisions to deny LTV Steel's and Bethlehem Steel's petitions for exclusion. The Agency will re-evaluate these delisting petitions in a manner consistent with the court's decision in *McLouth Steel Products Corp.*, as discussed in a previous notice published on June 9, 1988. See 53 FR 21639. LTV Steel and Bethlehem Steel must continue to treat their F006 wastes as hazardous until such time as they may, in the future, be granted an exclusion by the Agency for these wastes.

II. Effective Date

This rule is effective immediately. Withdrawal of the improperly promulgated final rules of November 14 and 18, 1986 is consistent with the decisions of the D.C. Circuit in *LTV Steel* and *Bethlehem Steel*. Therefore, immediately effective withdrawal of the November 14 and 18, 1986 rules meets the requirements of RCRA 3010(b)(3), 42 U.S.C. 6930(b)(3), and of the Administrative Procedures Act, 5 U.S.C. 553(d). Moreover, because this

withdrawal will not affect LTV Steel's or Bethlehem Steel's existing obligations to manage their wastes as hazardous, the regulated community will not need six months to come into compliance. See RCRA section 3010(b)(1), 42 U.S.C. 6930(b)(1).

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The withdrawal of two previously published final denial decisions will not impose an economic burden on these facilities since the withdrawal does not affect the manner in which the petitioned wastes must be handled. Despite the withdrawal of the denial decisions, these facilities are to continue managing their wastes as hazardous. There is no additional economic impact, therefore, due to today's rule. This notice is not a major regulation, thus, no Regulatory Impact Analysis is required.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This notice will not have an adverse economic impact on small entities. The facilities included in this notice may be considered small entities, however, this rule only affects two facilities in one industrial sector and does not change existing requirements for the management of their wastes. The overall economic impact, therefore, on small entities would be minimal. Accordingly, I hereby certify that this notice will not have a significant economic impact on a substantial number of small entities. This notice, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: September 21, 1988.

Joseph Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 88–22184 Filed 9–29–88; 8:45 am]

BILLING CODE 6560–50–M

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48 CFR Part 1515

[FRL–3456–3]

Acquisition Regulation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule permits the Environmental Protection Agency (EPA) to release proposals outside the Government for evaluation. The Federal Acquisition Regulation (FAR) gives EPA, as well as other executive agencies, the authority to use alternate procedures to release proposals outside the Government for evaluation. However, the authority must be in agency regulations that implement the FAR. The intended effect of this action is to amend the EPA Acquisition Regulation (EPAAR) to permit the use of the alternate procedures in the FAR. These alternate procedures will allow EPA to obtain the opinion of outside experts in evaluating proposals submitted under EPA's Small Business Innovative Research Program and other types of proposals requiring a high level of detailed expertise, especially in areas of complex and constantly changing technology.

EFFECTIVE DATE: September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph Nemargut, Environmental Protection Agency, Procurement and Contracts Management Division (PM–214F), 401 M Street SW., Washington, DC 20460, Telephone: (202) 475–9790.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Regulation 15.413–1 provides that after receipt of proposals, none of the information contained in them shall be made available to the public. FAR 15.413–2 provides that Agency regulations may provide for the alternate procedures in FAR 15.413–2 instead of the procedures in FAR 15.413–1.

This rule adopts the alternate procedures in FAR 15.413–2 for EPA. FAR 15.413–2 permits disclosure of proposals outside the Government only to the extent authorized by, and in accordance with the procedures in FAR 15.413–2(f). This rule also retains the restrictions relating to release of proposal information in FAR 15.413–1, paragraphs (a) and (b), notwithstanding adoption of the procedure in FAR 15.413–2.

The EPA is adopting these alternate procedures in order to obtain the opinion of outside experts in evaluating proposals submitted under EPA's Small Business Innovative Research Program. The EPA may also rely on the technical expertise of non-Federal employees in evaluating other types of proposals requiring a high level of detailed expertise, especially in areas of complex and constantly changing technology.

B. Executive Order 12291

OMB Bulletin No. 85–7, dated December 14, 1984, establishes the requirements for Office of Management and Budget (OMB) review of agency procurement regulations. This regulation does not fall within any of the categories cited in the Bulletin requiring Office of Management and Budget review.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements that require the approval of OMB under 44 U.S.C. 3501, et seq.

D. Regulatory Flexibility Act

The EPA certifies that this rule does not exert a significant economic impact on a substantial number of small entities. The rule permits EPA to exercise its authority under the FAR to release proposals outside the Government for evaluation. The rule has no impact on the EPA Source Selection Procedures in 48 CFR Subpart 1515.6.

E. Public Comments

The EPA published a notice of proposed rulemaking detailing these changes in the **Federal Register** on May 18, 1988. No comments were received. Therefore, the rule is being finalized without change.

List of Subjects in 48 CFR Part 1515

Government Procurement, Contracting by Negotiation.

For the reasons set out in the preamble, Part 1515 of Title 48 Code of Federal Regulations, is amended as follows:

PART 1515—[AMENDED]

1. The authority citation for Part 1515 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1515.413 is added to read as follows:

1515.413 Disclosure and use of information before award.

(a) Contracting Officers shall follow the Alternate II proposal evaluation procedures in FAR 15.413–2.

(b) After receipt of proposals, none of the information contained in them or concerning the number or identity of offerors shall be made available to the public or to anyone in the Government not having a legitimate interest. In the event an outside evaluation is to be obtained, information in proposals or information concerning the number or identity of offerors shall be disclosed only to the extent authorized by and in accordance with the procedures of FAR 15.413–2(f) and these regulations, 1515.413.

(c) During the preaward or preacceptance period of a negotiated acquisition, only the contracting officer, the contracting officer's superiors having contractual authority, and others specifically authorized shall transmit technical or other information and conduct discussions with prospective contractors. Information shall not be furnished to a prospective contractor if, alone or together with other information, it may afford the prospective contractor an advantage over others (see FAR 15.610, Written or oral discussion). However, general information that is not prejudicial to others may be furnished upon request.

(d) The Chief of the Contracting Office (CCO) is the designated official to make the decision as provided by FAR 15.413–2(f)(1).

(e) The Contracting Officer shall submit a written determination to the CCO whenever the use of FAR 15.413–2(f) procedures is contemplated. Following CCO approval, proposals may be released to non-Government employees for review and evaluation consistent with the provisions of FAR 15.413–2(f)(2)–(5).

(f) The following written certification and agreement shall be obtained from the non-Government evaluator prior to the release of any proposal to that evaluator:

"CERTIFICATION ON THE USE AND DISCLOSURE OF PROPOSALS"

RFP# _____

Offeror _____

1. I hereby certify that to the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial, technically sound, objective review of this proposal(s) or otherwise result in a biased opinion or unfair competitive advantage.

2. I agree to use any proposal information only for evaluation purposes. I agree not to copy any information from the proposal(s), to use my best effort to safeguard such information physically, and not to disclose the contents of nor release any information relating to the proposal(s) to anyone outside of the Source Evaluation Board assembled for this acquisition or individuals designated by the Contracting Officer.

3. I agree to return to the Government all copies of proposals, as well as any abstracts, upon completion of the evaluation.

_____

(Name and Organization)

_____

(Date of Execution)

(End of Certificate)

(g) The Contracting Officer shall place the Government Notice for Handling Proposals (FAR 15.413–2(e)) on the cover pages of all proposals upon their receipt.

3. Section 1515.604–70(a) is amended by adding a sentence to read as follows:

1515.604–70 Personal conflicts of interest

(a) * * * In the event an outside evaluation is to be obtained, non-Government employees may participate only if the procedures in FAR 15.413–2(f) and 1515.413 are followed.

* * * * *

Date: September 19, 1988.

John C. Chamberlin,

Director, Office of Administration.

[FR Doc. 88–22482 Filed 9–29–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 638, 640, 641, 642, 646, 653, 654, and 658

[Docket No. 80992–8192]

Fishery Conservation and Management

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule to implement a technical amendment to the regulations for the fishery management plans applicable to fisheries off the South Atlantic States and in the Gulf of Mexico. This is a housekeeping rule which changes the title of the Director, Southeast Fisheries Center, NMFS, from "Center Director" to "Science and Research Director." The intent is to clarify the regulations and conform them to current usage.

EFFECTIVE DATE: September 30, 1988.

FOR FURTHER INFORMATION CONTACT: W. Perry Allen (Regulatory Coordinator), 813–893–3722.

SUPPLEMENTARY INFORMATION: The eight parts of Title 50 CFR that are amended by this rule implement regulations under the Magnuson Fishery Conservation and Management Act. Each of the eight parts defines the title "Center Director." In two of the parts, that title is no longer used in the regulations and the definition is removed. In the other six parts, "Center Director" is replaced with "Science and Research Director" and the definition is standardized. The change of title is in accordance with a recent Department of Commerce Organization Order. The regulations for the Atlantic swordfish fishery (50 CFR Part 630) are not amended by this rule. The change of title to "Science and Research Director" will be part of a separate regulatory amendment of broader scope applicable to the swordfish fishery.

Other Matters

This final rule, technical amendment, is issued under 50 CFR Parts 638, 640, 641, 642, 646, 653, 654, and 658 and complies with E.O. 12291. Because this rule only makes minor, non-substantive corrections, the Assistant Administrator for Fisheries, NOAA, finds that it is unnecessary under 5 U.S.C. 553(b)(B) to provide for prior public comment and that there is good cause under 5 U.S.C. 553(d) not to delay for 30 days its effective date. Additionally, the prior public comment and delay of effective date requirements of 5 U.S.C. 553 are inapplicable under paragraph (a)(2) of that section because the corrections reflect an agency management directive.

Because this rule is being issued without prior comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act and none has been prepared.

This rule is minor and technical in nature and therefore is not a major rule under E.O. 12291. There is no change in the regulatory impacts previously reviewed and analyzed.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

This rule does not contain a collection-of-information requirement for purpose of the Paperwork Reduction Act.

List of Subjects in 50 CFR Parts 638, 640, 641, 642, 646, 653, 654, and 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 28, 1988.

William Matuszeski,

Executive Director, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Parts 638, 640, 641, 642, 646, 653, 654, and 658 are amended as follows:

PARTS 638, 640, 641, 642, 646, 653, 654, AND 658—[AMENDED]

1. The authority citations for Parts 638, 640, 641, 642, 646, 653, 654, and 658 continue to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In §§ 638.2, 641.2, 642.2, 646.2, 653.2, and 658.2, the definition for *Center Director* is removed and a new definition for *Science and Research Director* is added in alphabetical order to read as follows:

§ 638.2, § 641.2, § 642.2, § 646.2, § 653.2, and § 658.2 Definitions.

* * * * *

Science and Research Director means the Science and Research Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305–361–5761, or a designee.

* * * * *

§§ 640.2 and 654.2 [Amended]

3. In §§ 640.2(a) and 654.2, the definition for *Center Director* is removed.

§§ 638.7, 641.5, 642.5, 646.2, 646.4, 653.5, 653.24 and 658.5 [Amended]

4. In addition to the amendments set forth above—

A. The phrases "Center Director" or "Center Director or his designee" are removed wherever they appear and the phrase "Science and Research Director" is added in their place in the following places: § 638.7; § 641.5(a), (b) introductory text, (c) introductory text, (d) introductory text, (g) introductory text, (g)(5), (h) introductory text, and (i); § 642.5(a) introductory text, (a)(3), (b) introductory text, (c) introductory text, and (e); § 646.2 in paragraph (a) of the definition for *Authorized statistical reporting agent;* § 646.4; § 653.5(a) introductory text and (b); § 653.24(a) introductory text; and § 658.5(a) introductory text, (a)(4), and (b) introductory text.

§§ 641.5 and 653.24 [Amended]

B. The phrase "Center Director's" is removed and the phrase "Science and Research Director's" is added in its place in the following places: § 641.5(a); and § 653.24(b).

[FR Doc. 88–22585 Filed 9–29–88; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 53, No. 190
Friday, September 30, 1988

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 906

[Docket No. FV-88-121]

Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Proposed Tighter Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would tighten the minimum size requirements currently in effect for fresh Texas grapefruit shipments. Under the proposal, the minimum size requirements for grapefruit would be tightened by prohibiting the shipment of size 112 grapefruit grading at least U.S. No. 1 during the period November 16 through January 31 each season. The proposed change is needed by the Texas grapefruit industry to help it more successfully market its crop. The change is expected to provide more desirable sizes with more acceptable maturity and flavor during the peak demand period of the shipping season.

DATE: Comments must be received by October 17, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, D.C. 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. All comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918..

SUPPLEMENTARY INFORMATION:

This proposed rule is issued under the Marketing Agreement and Marketing Order No. 906, as amended [7 CFR Part 906], regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The 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.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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 22 handlers of Texas oranges and grapefruit subject to regulation under the Texas citrus marketing order, and approximately 3,000 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

Grade and size requirements for Texas grapefruit are currently specified in § 906.365 *Texas orange and grapefruit regulation 34*. The Texas Valley Citrus Committee, which administers the marketing order, unanimously recommended at its meeting on June 29, 1988, that the minimum size requirements currently in effect for Texas grapefruit be tightened. The current regulation provides that grapefruit in fresh shipments be at least pack size 96 (3–9/16) inches in diameter), except that grapefruit grading at least U.S. No. 1 may be shipped if they are at least pack size 112 (3–5/16 inches in diameter).

The Texas grapefruit shipping season extends from late September through May. This action would prohibit the shipment of size 112's (3–5/16 inches in diameter) grading at least U.S. No. 1 during the November 16 through January 31 period each season. This is intended to provide more desirable sizes with more acceptable maturity and flavor during the period of peak demand during the season. According to the committee, this would enable it to effectively compete with grapefruit from Florida during this period. Moreover, it indicated that more than enough larger-sized fruit would be available during this period of the season to meet market needs. The committee also indicated that this action will provide growers with an incentive to hold the smaller-sized fruit on the trees longer to gain size, maturity, and flavor, thus providing the trade with a more acceptable product later in the season when the available supplies are winding down.

Delaying the implementation of the size increase until mid-November would lessen the chances of grower hardships by allowing the shipment of size 112's until the juice plants open. There is no viable economic outlet for small-sized and cull citrus in the production area other than that for juice. Reinstituting the shipment of size 112's after January 31 when the grapefruit has gained an acceptable level of maturity and flavor would ensure that there are adequate supplies of flavorful fruit available for fresh market needs for the remainder of the season.

In addition, miscellaneous changes to § 906.364 are proposed to remove obsolete language and update references to U.S. Standards.

Section 906.365 was issued on a continuing basis subject to modification, suspension, or termination by the Secretary. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Texas grapefruit. Committee meetings are open to the public and interested persons may

express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Texas grapefruit shipments to markets in the United States, Canada, and Mexico are regulated under this marketing order. Certain shipments are exempt from the handling requirements effective under the marketing order. Handlers may ship grapefruit within the production area (the counties of Cameron, Hidalgo, and Willacy) exempt from all marketing order requirements. Grapefruit shipped in gift packages of not more than 500 pounds which are individually addressed and not for resale are exempt from handling requirements. Also, grapefruit shipped under the minimum quantity exemption provisions, and for relief, charity, and home use are exempt under certain conditions. In addition, grapefruit shipped to approved processors for conversion into canned or frozen products are not subject to the handling requirements.

The proposed tighter minimun size requirements for Texas grapefruit reflect the committee's and the Department's appraisal of the need to consider the changes and issue the proposed rule. This proposed rule recognizes current and prospective supply and demand for grapefruit and the committee's views of what is needed to strengthen the marketing position of Texas grapefruit growers and handlers.

Therefore, the Department's view is that the impact of this proposed action would be beneficial to producers and handlers because it would enable handlers to provide grapefruit consistent with buyer requirements. The application of minimun size requirements to Texas grapefruit over the past several years has resulted in fruit of acceptable sizes being shipped to fresh markets.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

It is found and determined that a comment period of less than 30 days is appropriate because this action needs to become effective for the 1988–89 shipping season, which is expected to begin in late September. A comment period longer than provided could delay the effective date beyond November 16, 1988, the desired implementation date during the 1988–89 and subsequent seasons.

List of Subjects in 7 CFR Part 906

Marketing agreements and orders, Texas grapefruit, Oranges.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 906 be amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR Part 906 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 906.365 is amended by revising the introductory text of paragraph (a) and paragraphs (a)(2), (a)(4), and (b), and by removing paragraph (c) to read as follows:

§ 906.365 Texas orange and grapefruit grade and size regulations.

(a) No handler shall handle any variety of oranges or grapefruit grown in the production area unless:

* * * * *

(2) Such oranges are at least pack size 288, except that the minimum diameter limit for pack size 288 oranges in any lot shall be 2 1/16 inches;

* * * * *

(4) Such grapefruit are at least pack size 96, except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3 1/16 inches: *Provided,* That any handler may handle grapefruit, except during the period November 16 through January 31 each season, which are smaller than pack size 96, if such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3 5/16 inches;

* * * * *

(b) Terms relating to grade, pack size, and diameter shall mean the same as in the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) [17 CFR 51.680 through 51.714] or in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California and Arizona) [17 CFR 51.620 through 51.653].

Dated: September 26, 1988.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 88–22561 Filed 9–29–88; 8:45 am]

BILLING CODE 3410–02–m

7 CFR Part 1099

[DA–88–122]

Milk in the Paducah, KY, Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal that would suspend portions of the producer milk definition of the Paducah, Kentucky milk order for an indefinite period. The suspension would increase the amount of milk that may be shipped directly from the farm to nonpool plants and still be priced under the order. Also, the suspension would remove the restriction that prohibits a cooperative association from marketing the milk of producer members of another cooperative association. The suspension was requested by Dairymen, Inc. (DI), a cooperative association that represents producers who supply the market. DI contends that the suspension is necessary because of changed marketing conditions and to permit the efficient marketing of milk of dairy farmers who have historically supplied the market.

DATE: Comments are due on or before October 7, 1988.

ADDRESS: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has

been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Paducah, Kentucky marketing area is being considered for an indefinite period:

1. In § 1099.12, paragraph (c)(2).

2. In § 1099.13(c)(3), the words, "in his capacity as the operator of a pool plant,", "milk of a", "who is not a member of a cooperative association diverting", "pursuant to paragraph (c)(2) of this section,", "at such plant", "such nonmember", "in any of the months of April through August and December and 25 percent in other months" and "nonmember".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days to permit completion of the required procedures to make the action effective as soon as possible, if this is found necessary.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposal would suspend portions of the producer milk definition of the Paducah, Kentucky milk order for an indefinite period. The proposal would allow more milk to be shipped directly from farms to nonpool plants and still be priced and pooled under the order. Also, the suspension would allow a cooperative association to divert the milk of another cooperative association to nonpool plants.

The order provides that a cooperative association may divert up to 33 percent of the milk of its member producers that is received at pool plants during April through August and December and 25 percent in other months. The same diversion limits apply to a handler who operates a pool plant. A suspension would remove the restriction that limits diversions by cooperative associations to member milk and would allow up to 33 percent of milk received to be diverted during all months.

The suspension was requested by Dairymen, Inc. (DI), a cooperative association that represents producers who supply the market. DI requested that the suspension begin on September 1, 1988, and continue until such time that a hearing can be held to consider amendments to the order. DI contends that the suspension is necessary to reflect changes in the marketing of producer milk under the order. DI indicates that its sales to fluid milk plants have declined in recent months and, therefore, additional quantities of milk that has historically been associated with the market will have to be diverted to nonpool plants. In addition, DI indicates that, effective September 1, 1988, another cooperative association will be the marketing agent for DI member milk that is pooled under the order. Consequently, DI contends that the suspension is necessary to accommodate the efficient marketing of milk under the new marketing practices and conditions.

List of Subjects in 7 CFR Part 1099

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1099 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on September 27, 1988.

L.P. Massaro,

Acting Administrator.

[FR Doc. 88–22562 Filed 9–29–88; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Transportation Regulations; Compatibility with the International Atomic Energy Agency (IAEA): Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: extension of comment period.

SUMMARY: On June 8, 1988 (53 FR 21550), the NRC published for public comment a proposed rule to make its transportation regulations in 10 CFR Part 71 compatible with those of the International Atomic Energy Agency contained in its Safety Series No. 6, Regulations for the Safe Transport of Radioactive Material, 1985 Edition. This rulemaking action, combined with a parallel action by the Department of Transportation (DOT), would make United States regulations for the safe transportation of radioactive material internationally compatible. Because it is important that the public have the opportunity to review and comment on the DOT and NRC proposed rules concurrently, NRC set its public comment period to expire on October 6, 1988, expecting the DOT rule to be available for publication by the end of June, 1988. Availability of the DOT proposed rule has now been delayed to early October, 1988. To achieve its goal of having some portion of the public comment period common for both rules, the NRC has decided to extend the comment period for an additional two months, to December 6, 1988.

DATES: The comment period has been extended and now expires December 6, 1988. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received before this date.

ADDRESSES: Send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:45 p.m. Examine comments received at the NRC Public Document Room, 2120 L Street, NW., lower level, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Donald R. Hopkins, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301–492–3784).

Dated at Rockville, Maryland, this 26th day of September, 1988.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.

Executive Director for Operations.

[FR Doc. 88–22499 Filed 9–29–88; 8:45 am]

BILLING CODE 7950–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–NM–111–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede two existing airworthiness directives (AD), applicable to British Aerospace Model BAC 1–11 200 and 400

series airplanes, which currently require repetitive inspection procedures and repair, if necessary, of the main landing gear (MLG) support structure, and a one-time inspection and repair, if necessary, of a component in the nose landing gear (NLG). These actions were prompted by reports of cracks in the MLG rear pintle support beam and the collapse of an NLG. This proposal would add additional model series to the AD applicability and require additional inspections and maintenance procedures for the MLG support structure. This action is prompted by a structural re-evaluation, which identified the need for additional inspection procedures for some variations of the airplane to adequately detect cracking. This condition, if not corrected, could lead to collapse of the MLG and NLG.

DATE: Comments must be received no later than November 23, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-111-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Transport Airplane Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Montain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-111-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On January 30, 1986, FAA issued AD 86-04-07, Amendment 39-5235 (51 FR 4588; February 6, 1986), to require repetitive inspections for cracks or damage, and repair or replacement, if necessary, of certain components of the nose and main landing gear (MLG). That action was prompted by reports of cracks in the main landing gear rear pintle support beam, and of the collapse of a nose landing gear. The required repetitive inspection of the MLG addressed only the Model BAC 1-11 400 series airplanes. That AD also required a one-time inspection of certain components of the nose landing gear (NLG) on BAC 1-11 Model 200 and 400 series airplanes.

On March 7, 1988, FAA issued AD 88-07-01, Amendment 39-5878 (53 FR 8869; March 18, 1988) to require repetitive inspections of the MLG support structure and repair, if necessary. That action was prompted by reports of cracks in the MLG rear pintle support beam. That AD addressed only the Model BAC 1-11 200 series airplanes.

Since issuance of those AD's, the United Kingdom Civil Airworthiness Authority (CAA) and British Aerospace have notified FAA that a structural re-evaluation of the Model BAC 1-11 200 and 400 series airplanes has identified the need for additional inspection procedures for some variations of these models to adequately detect cracking in the MLG support structure. Such cracking, if not detected and corrected, could lead to collapse of the main landing gear.

British Aerospace has issued Alert Service Bulletin 57-A-PM5896, Issue No. 4, dated February 17, 1988, which describes procedures for certain variations of the airplanes to inspect the MLG for cracks in the rear pintle support beam, reduces the total landing threshold for certain variations of the airplanes, and revises the repair procedures for the Model 400 series airplanes if cracks are found. The United Kindgom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Administration and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of this same type design registered in the United States, an AD is proposed which would supersede AD 86-04-07, Amendment 39-5235, and AD 88-07-01, Amendment 39-5878, to require additional inspections for cracks in the rear pintle support beam and repair, if necessary; and a one-time inspection of the nose landing gear and repair, if necessary, in accordance with the service bulletin previously mentioned. This supersedure action would clarify and combine in one AD the inspection requirements for the Models 200 and 400 series airplanes that are currently reflected in two separate AD's.

It should be noted that the requirement for the nose landing gear inspection set forth in paragraph B., of AD 86-04-07 would not be changed by this action. Previous accomplishment of that inspection in accordance with British Aerospace BAC 1-11 Alert Service Bulletin 32-A-PM5872, dated July 25, 1983, would satisfy the requirements of paragraph E. of this proposed AD.

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $400 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,400.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 86-04-07, Amendment 39-5235 (51 FR 4588; February 6, 1986) and AD 88-07-01, Amendment 39-5878; March 18, 1988), with the following new AD:

British Aerospace: Applies to Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent a hazardous landing condition, accomplish the following:

A. For Model BAC 1-11 200 series airplanes (pre-modification PM3070; modification PM 3070 with Main Support Beams Part No. ED03-1001/2; or Modification PM5928), prior to the accumulation of 50,000 landings or within the next 1,500 landings after April 25, 1988 (which is the effective date of AD 88-07-01, Amendment 39-5878), whichever occurs later, perform an eddy current or dye penetrant inspection for cracks in the rear pintle support beam, in accordance with paragraph 2.1.1 of the accomplishment instructions of British Aerospace BAC 1-11 Alert Service Bulletin 57-A-PM5896, Issue Number 4, date February 17, 1988. Thereafter, repeat the inspection at intervals not to exceed 3,200 landings.

Note: Airplanes that complied with paragraph A. of AD 88-07-01, Amendment 39-5878, are considered to have met the initial inspection requirements of this paragraph, and the inspection is to be repeated at intervals not to exceed 3,200 landing.

B. For Model BAC 1-11 400 series airplanes [pre-modification PM3070; modification PM3070 with Main Support Beams Part No. ED03-1001/2; or modification PM5928], prior to the accumulation of 15,000 landings, or within 1,500 landings after March 17, 1986 (which is the effective date of AD 86-04-07, Amendment 39-5235), whichever occurs later, perform an eddy current or dye penetrant inspection for cracks in the rear pintle support beam in accordance with paragraph 2.1.1 of the accomplishment instructions of British Aerospace BAC 1-11 Alert Service Bulletin 57-A-PM5896, Issue Number 4, dated February 17, 1988. Thereafter, repeat the inspection at intervals not to exceed 3,200 landings.

Note: Airplanes that complied with paragraph A. of AD 86-04-07, Amendment 39-5235, are considered to have met the initial inspection requirements of this paragraph, and the inspection is to be repeated at intervals not to exceed 3,200 landings.

C. For Model BAC 1-11 200 and 400 series airplanes [modification PM3070 with Main Support Beam Part No. EN03-1259/60], prior to the accumulation of 7,500 landings or within 90 days after the effective date of this AD, whichever occurs later, perform an eddy current or dye penetrant inspection for cracks in the rear pintle support beam in accordance with paragraph 2.1.1 of the accomplishment instruction of British Aerospace BAC 1-11 Alert Service Bulletin 57-A-PM5896, Issue Number 4, dated February 17, 1988. Thereafter, repeat the inspection at intervals not to exceed 3,200 landings.

Note: Model BAC 1-11 200 series airplanes that complied with paragraph A. of AD 88-07-01, Amendment 39-5878; and Model BAC 1-11 400 series airplanes that complied with paragraph A. of AD 86-04-07, Amendment 39-5235; are considered to have met the initial inspection requirements of this paragraph, and the inspection is to be repeated at intervals not to exceed 3,200 landings.

D. If cracks are discovered during the inspections required by paragraph A., B. and C., above, accomplish the following:

1. If cracks are less than 0.6 inch on pre-modification PM3070 airplanes, or less than 0.2 inch on post-modification PM3070 airplanes, repair or replace the cracked part prior to further flight, in accordance with paragraph 2.5.1 of the Accomplishment Instructions of British Aerospace BAC 1-11 Alert Service Bulletin 57-A-PM5896, Issue Number 4, dated February 17, 1988. If cracks are repaired in accordance with the service bulletin, continue to perform eddy current or dye penetrant inspections at intervals not to exceed 800 landings, providing that, in the case of pre-modification PM3070 airplanes, if cracks are present in the aft half beam, cracked parts must be replaced prior to further flight.

2. If cracks are equal to or more than 0.6 inch on pre-modification PM3070 airplanes, or equal to or more than 0.2 inch on post-modification PM3070 airplanes, replace the cracked part with an airworthy part prior to further flight.

E. Prior to June 17, 1986 (which is 90 days after the effective date of AD 86-04-07, Amendment 39-5235), inspect for damage of the toggle links' special bolt assembly, part number AB44A1275, in accordance with the accomplishment instructions of British Aerospace BAC 1-11 Alert Service Bulletin 32-A-PM5872, dated July 25, 1983. If the special bolt assembly is found damaged, replace with a serviceable part before further flight.

Note: Airplanes that have complied with paragraph B. of AD 86-04-07, Amendment 39-5235, are considered to have met the requirements of this paragraph.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 22, 1988.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22422 Filed 9-29-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-CE-30-AD]

Airworthiness Directives; British Aerospace PLC Model HP137 Mk1, Jetstream Model 200 and Jetstream Model 3101 (Includes Model 3100) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to British Aerospace (BAe), PLC Model HP137 Mk1, Jetstream Model 200, and Jetstream Model 3101 (includes Model 3100) airplanes, which would require initial and repetitive inspections of the wing spar fuselage

attachment fitting shear angles for cracks, and repair thereof when detected. Cracks have been found in the shear angles necessitating a reduction in the previous inspection threshold specified by the manufacturer. The inspections and repair proposed in this AD would preclude structural failure of the wing.

DATE: Comments must be received on or before November 21, 1988.

ADDRESSES: BAe Alert Service Bulletin (ASB) Jetstream 57–A–JA880144, dated June 14, 1988, applicable to this AD may be obtained from British Aerospace PLC, Manager, Product Support, Civil Aircraft Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; telephone 44 292 79888; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041; telephone (703) 435–9100. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 88–CE–30–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Office, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassay, B–1000 Brussels, Belgium; telephone (322) 513.38.30; or Mr. John P. Dow, Sr, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 88–CE–30–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

During routine maintenance of a BAe Jetstream series airplane, a crack was detected on the shear angle of the left and right hand wing to fuselage main wing spar attachment fitting. The manufacturer had previously determined an inspection interval of the shere angle based upon fatigue testing. However, because of this filed report British Aerospace (BAe) PLC has issued Alert Service Bulletin (ASB) Jetstream 57–A–JA880144, dated June 14, 1988, which reduces the inspection threshold. This bulletin describes initial and recurring visual or dye penetrant inspections, as required, of the shear angle of the left and right hand main wing to fuselage attachment, fitting remedial measures in the event cracks are found, and corrective measures to prevent such cracks. These actions will preclude structural failure of the wing. The Civil Aviation Authority (CAA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom (UK), has clssified this Alert Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under UK registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of CAA–UK combined with FAA review of pertinent documentation if finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of ASB Jetstream 57–A–JA880144, dated June 14, 1988, and the mandatory classification of this Alert Service Bulletin by the CAA–UK. Based on the foregoing, the FAA has determined that the condition addressed by ASB Jetstream 57–A–JA880144, dated June 14, 1988, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would required initial and recurring visual or dye penetrant inspections, as required, of the shear angle of the left and right hand main wing to fuselage attachment fitting and remedial measures in the event such cracks are found.

The FAA has determined there are approximately 140 airplanes affected by the proposed AD. The cost of inspecting the main wing spar for cracked shear angles in accordance with the proposed AD is estimated to be an annual cost of $93 per airplane. The total annual cost is estimated to be $13,000 to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assisment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12991; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

British Aerospace, (BAe) PLC: Applies to Model HP 137 Mkl, Jetstream Model 200, and Jetstream Model 3101 (includes Model 3100) (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD after the effective date of this AD, unless already accomplished.

To prevent reduction of strength of the main wing spar attachment structure, accomplish the following:

(a) Upon the accumulation of 4,000 landings or within the next 400 landings, whichever occurs later and thereafter at intervals of 2000 landings, visually or dye penetrant inspect, as required, the Part Number (P/N) 1307B99 and P/N 1307B100 shear angles for cracks as described in BAe Alert Service Bulletin (ASB) Jetstream 57-A-JA880144, dated June 14, 1988, Section 2, *Accomplishment Instructions.*

(1) If a crack is detected that is 1½ inch (37 mm) in total length, or 1 inch (25 mm) vertically or longer, prior to further flight, modify the airplane in accordance with BAe Modification JM5303, dated June 14, 1988, by replacing the shear angles with P/N 13707B125 and P/N 13707B126 shear angles.

(2) If a crack is detected that is less than 1 inch vertically or 1½ inch total length, re-inspect the shear angles thereafter at intervals not to exceed 100 landings, prior to an additional 400 landings modify the airplane in accordance with BAe Modification JM5303, dated June 14, 1988.

(b) If no record of landings is available, 1 hour time-in-service equals 2 landings may be used in determining the compliance times in this AD.

(c) The inspections described in paragraph (a) above are not required when the airplanes left and right shear angles have been modified by BAe Modification JM5303, dated June 14, 1988.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to British Aerospace PLC, Manager, Product Support, Civil Aircraft Divisions, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. These documents may also be examined at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 21, 1988.

Barry D. Clements,

Manager, Small Airplane Directorate Aircraft Certification Service.

[FR Doc. 88-22423 Filed 9-29-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-133-AD]

Airworthiness Directives: Cessna Model S550 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to Cessna Model S550 Series airplanes, which currently requires repetitive checks of the main landing gear (MLG) torque link assemblies to verify that the torque link cotter pins are not broken or missing; and retorquing of the nut and replacement of the cotter pin, if necessary. This action would provide for an optional modification of the MLG torque link assemblies which, if accomplished, would eliminate the need for the repetitive checks. This action would also limit the applicability of the AD only to airplanes, Serial Numbers S550-0001 through S550-0158.

DATE: Comments must be received no later than November 23, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-133-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Cessna Aircraft Company, Citation Marketing Division, P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitted a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-133-AD, 17900 Pacific Highway South, C-68966, Seattle Washington 98168.

Discussion

On May 25, 1988, FAA issued AD 88-13-03, Amendment 39-5946 (53 FR 20826; June 7, 1988), applicable to all Cessna Model S550 series airplanes, to require an addition to the FAA-approved Airplane Flight Manual (AFM) that requires a check of the main landing gear (MLG) torque link assembly, prior to the first flight of the day, to verify that the cotter pins are not missing or do not indicate evidence of being cut or sheared by the attaching nut; and to require retorquing of the nut and replacement of the cotter pin, if necessary. That action was prompted by reports of broken cotter pins that secure the MLG torque link connections. This condition, if not corrected, could result in loosening of the attaching nut and bolt, which would lead to loss of control of the airplane during takeoff or landing.

Since issuance of that AD, the manufacturer has developed a modification to the MLG torque link assemblies which, if installed, eliminates the need for the repetitive checks required by AD 88-13-03.

The FAA has reviewed and approved Cessna Service Bulletin SBS550-32-5, dated August 26, 1988, which provides

instructions for modifying the MLG torque links by removing them and reinstalling each torque link oriented 180 degress from the existing position. In addition, the MLG squat switches will be required to be repositioned and the squat switch rod replaced.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD, is proposed which would revise AD 83–13–03 to provide for an optional terminating action for the required repetitive checks by modifying the MLG torque link assemblies in accordance with the service bulletin previously mentioned. Additionally, this proposal would limit the applicability of the existing AD to only those airplanes with Serial Numbers S550–0001 through S550–0158. Beginning with Serial Number S550–0159, a modification of the MLG torque link assemblies was made in production, which eliminates the unsafe condition addressed in this AD action.

It is estimated that 157 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10.5 manhours per airplane to accomplish the optional terminating action, and that the average labor cost would be $40 per-manhour. The cost of parts, is estimated to be $125 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators who elect to install the optional modification is estimated to be $545 per airplane.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because this action does not impose a requirement but provides an optional means of compliance with an existing regulation. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend §39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 88–13–03, Amendment 39–5946 (53 FR 20826; June 7, 1988), by revising the applicability statement, redesignating paragraph C. as D., and adding a new paragraph C., as follows:

Cessna: Applies to Model S550 series airplanes, Serial Numbers S550–0001 through S550–0158, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent loss of control of the airplane during landing or takeoff due to failure of the cotter pins securing the main landing gear torque link connections, accomplish the following:

A. Within 48 hours after the effective date of this AD, incorporate the following into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM:

Prior to the first flight of each day, verify that the cotter pins securing the left and right main landing gear torque link connections are installed. If either cotter pin is broken, missing, or exhibits any evidence of being cut or sheared by the nut, prior to further flight, accomplish paragraph B. of this AD.

B. If either cotter pin is broken, missing, or exhibits any evidence of being cut or sheared by the nut, the nut must be retorqued to 630 inch-pounds, then tightened to align the cotter pin(s) hole, up to a maximum torque of 810 inch-pounds, and a new cotter pin(s), P/N MS24665–287, installed. This must be accomplished in accordance with Cessna S550 Maintenance Manual Section 32–11–01, pages 403, 404, and 405.

C. Modification of the main landing gear torque link assemblies in accordance with Cessna Service Bulletin SBS550–32–5, dated August 26, 1988, constitutes terminating action for the requirements of paragraphs A. and B., above.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Cessna Aircraft Company, Citation Marketing Division, P.O. Box 7706, Wichita, Kansas 67277. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

Issued in Seattle, Washington, on September 22, 1988.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–22424 Filed 9–29–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 422

Social Security Number Cards

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: In these proposed regulations, we are amending our rules on issuing social security number cards. The proposed changes which affect aliens are prompted by the Immigration Reform and Control Act of 1986 (Pub. L. 99–603). They reflect the role of the Immigration and Naturalization Service in accepting applications for social security number cards from certain aliens. We are also clarifying and updating our rules on the evidence applicants, including U.S. citizens, must submit in support of an application for a social security number card. Additionally, we explain the role of the States in accepting applications for a social security number card from persons applying for or receiving welfare benefits.

DATE: Your comments will be considered if we receive them no later than November 29, 1988.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3–B–4 Operations Building, 6401 Security Boulevard,

Baltimore, MD 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–8471.

SUPPLEMENTARY INFORMATION: Under section 205(c)(2)(B)(i) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(i)), the Secretary of Health and Human Services is required to assure that social security account numbers are assigned to aliens at the time of their lawful admission to the United States either for permanent residence, or under other authority permitting them to work, and to other aliens at such time as their status is changed to make it lawful for them to work. We propose to amend our current rules (20 CFR 422.106) concerning when an alien may apply for a social security number card at offices of the Immigration and Naturalization Service.

The proposed rules update our procedures for issuing social security number cards and explain new procedures prompted by the Immigration Reform and Control Act of 1986 (Pub. L. 99–603). Among other things, this Act establishes a program whereby an alien who can show continuous residence in the U.S. since January 1, 1982, or who meets the requirements for special agricultural workers, may legalize his or her status. The Immigration and Naturalization Service will grant legalization applicants temporary authority to work as part of the legalization process. Pursuant to section 205(c)(2)(B)(iii) of the Social Security Act, the Social Security Administration has entered into an agreement with the Immigration and Naturalization Service to facilitate the assignment of social security numbers to the large number of aliens who are applying to legalize their status and to assure that legalization applicants will be assigned social security numbers at the time their status is changed to make it lawful for them to work. Under the agreement, Immigration and Naturalization Service employees will accept applications for social security number cards in the course of interviewing legalization applicants. We are, therefore, proposing to revise § 422.106 to reflect the role of the Immigration and Naturalization Service in obtaining social security number applications in connection with the legalization process.

We are also proposing to revise our rules in § 422.107 on annotating our individual records of aliens. In the past, we have annotated records of aliens in order to report work activity to the Immigration and Naturalization Service when earnings were reported to a social security number which had been issued for a nonwork purpose. We may now also annotate records of aliens in order to report work activity to the Immigration and Naturalization Service in cases where the social security number card had been originally issued for work purposes, but the work authority granted by the Immigration and Naturalization Service has been terminated by that agency.

We are proposing to revise § 422.103 to explain that individuals outside the United States may apply for a social security number card not only at the Veterans Administration regional office in Manila, but also at any U.S. foreign service post or at any U.S. military post outside the U.S.

We are also proposing to add a provision to § 422.106 to indicate that, pursuant to section 205(c)(2)(B)(iii) of the Social Security Act, the Social Security Administration has entered into an agreement with some States under which State employees may accept applications for a social security number card from persons applying for or receiving welfare benefits under a State-administered Federal program. The State employees are also authorized to certify the application to show that they have reviewed the required supporting evidence. This provision will codify a practice we have developed with individual States for the mutual benefit of applicants, the Social Security Administration, and the States.

Additionally, we are proposing to make minor changes to revise and clarify our rules on the evidence that must be provided by applicants, including U.S. citizens, in support of a social security number card application, and to update the explanation of how we process applications.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the regulations do not meet any of the threshold criteria for a major rule. These changes are expected to save the Federal Government $5.9 million for fiscal year 1988 and $6.3 million for subsequent years. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they affect only the issuing of social security numbers to individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not needed.

Paperwork Reduction Act

These proposed rules contain reporting requirements in §§ 422.107 and 422.110. However, the Office of Management and Budget (OMB) approval of these requirements has already been obtained. The OMB approval number is 0960–0066.

(Cagalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 422

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies), Social Security.

Dated: May 11, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 10, 1988.

Otis R. Bowen,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Subpart B of Part 422 of 20 CFR Chapter III is proposed to be amended as follows:

PART 422—ORGANIZATION AND PROCEDURES

1. An authority citation for Subpart B is added to read as follows:

Authority: Secs. 205 and 1102, Social Security Act (42 U.S.C. 405 and 1302).

2. Section 422.103 is revised to read as follows:

§ 422.103 Social security numbers.

(a) *General.* The Social Security Administration (SSA) maintains a record of the earnings reported for each individual assigned a social security number. The individual's name and social security number identify the record so that the wages or self-employment income reported for or by the individual can be properly posted to the individual's record. Additional procedures concerning social security numbers may be found in Internal Revenue Service, Department of the Treasury regulation 26 CFR 31.6011(b)–2.

(b) *Applying for a number.* Every individual needing a social security number may apply for one by filing a signed Form SS–5, "Application for A Social Security Number Card," at any social security office and submitting the required evidence. Upon request, the social security office may distribute a quantity of application Form SS–5 to labor unions, employers, or other representative organizations. An individual outside the United States may apply for a social security number card at the Veterans Administration regional office, Manila, Philippines, at any U.S. foreign service post, or at a U.S. military post outside the U.S. (See § 422.106 for special procedures for filing applications with other government agencies.) Form SS–5 may be obtained at:

(1) Any local social security office;

(2) The Social Security Administration, 300 N. Greene Street, Baltimore, MD 21201;

(3) Offices of District Directors of Internal Revenue;

(4) U.S. Postal Service offices (except the main office in cities having a social security office);

(5) U.S. Employment Service offices in cities which do not have a social security office;

(6) The Veterans' Administration Regional Office, Manila, Philippines;

(7) Any U.S. foreign service post; and

(8) U.S. military posts outside the U.S.

(c) *How numbers are assigned.* Social security numbers are assigned by SSA's central office in Baltimore, Maryland. Upon receipt of a completed Form SS–5, the social security office, the Veterans' Administration regional office, Manila, Philippines, the U.S. foreign service post, or the U.S. military post outside the U.S. will require the applicant to furnish documentary evidence, as necessary, to assist SSA in establishing age, U.S. citizenship or alien status, true identity, and previously assigned social security number(s), if any. A personal interview may be required of the applicant. (See § 422.107 for evidence requirements.) After review of the documentary evidence, the completed Form SS–5 is forwarded (or data from the SS–5 is transmitted) to SSA's central office where the data is electronically screened against SSA's files. If the applicant requests evidence to show that he or she has filed an application for a social security number card, a receipt or equivalent document may be furnished. If the electronic screening or other investigation does not disclose a previously assigned number, SSA's central office assigns a number and issues a social security number card. If investigation discloses a previously assigned number for the applicant, a duplicate social security number card is issued.

(d) *Social security number cards.* A person who is assigned a social security number will receive a social security number card from SSA within a reasonable time after the number has been assigned. (See § 422.104 regarding the assignment of social security number cards to aliens.) Social security number cards are the property of SSA and must be returned upon request.

(e) *Replacement of social security number card.* In case of loss of or damage to the social security number card, a duplicate card bearing the same number may be issued. (See § 422.107 for evidence requirements.)

§ 422.105 [Amended]

3. Section 422.105 is amended by changing the cross-reference from "22 CFR 41.12" to "8 CFR 109.1".

4. Section 422.106 is revised to read as follows:

§ 422.106 Filing applications with other government agencies.

(a) *Agreements.* In carrying out its responsibilities to assign social security numbers, SSA enters into agreements with the United States Attorney General and other Federal officials, and with State and local welfare agencies and school authorities. Examples of these agreements are discussed in paragraphs (b) and (c) of this section.

(b) *Immigration and Naturalization Service.* In connection with the legalization procedures established pursuant to the Immigration Reform and Control Act of 1986, the Immigration and Naturalization Service may accept an application for a social security number card from an alien. Immigration and Naturalization Service employees who accept such applications are authorized to certify that they have reviewed the evidence required to be submitted in support of the application. The employees will verify age, identity, alien status and work authorization of the applicants, and obtain evidence to assist SSA in determining the existence of any previously assigned social security number. The Immigration and Naturalization Service will then send the application to SSA for the issuance of a social security number card.

(c) *States.* SSA and a State may enter into an agreement that aurhorizes employees of a State or one of its subdivisions to accept social security number card applications from individuals who apply for or are receiving welfare benefits under a State-administered Federal program. Under such an agreement, a State employee is also authorized to certify the application to show that he or she has reviewed the required evidence of the applicant's age, identity, and U.S. citizenship or alien status. The employee is also authorized to obtain evidence to assist SSA in determining whether the applicant has previously been assigned a number. The employee will then send the application to SSA which will issue a social security number card.

5. Section 422.107 is revised to read as follows:

§ 422.107 Evidence requirements.

(a) *General.* An applicant for an original social security number card must submit documentary evidence which the Secretary of Health and Human Services regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit convincing documentary evidence of identity and alien status and may also be required to submit convincing documentary evidence of age and U.S. citizenship. An applicant for an original, duplicate, or corrected social security number card is also required to submit evidence to assist the SSA in determining the existence and identity of any previously assigned number(s). A social security number will not be assigned, or an original, duplicate, or corrected card issued, unless all of the evidence requirements are met. An in-person, interview is required of all applicants age 18 or older who apply for an original social security number. An in-person interview may also be required of other applicants. All documents submitted as evidence must be originals or certified copies of the original documents and are subject to verification with the custodians of the original records.

(b) *Evidence of age.* An applicant for an original social security number is required to submit convincing evidence of age. An applicant for a duplicate or corrected social security number card may also be required to submit evidence of age. Examples of the types of evidence which may be submitted are a birth certificate, a religious record showing age or date of birth, a hospital record of birth, or a passport.

(c) *Evidence of identity.* An applicant for an original social security number or a duplicate or corrected social security number card is required to submit convincing doumentary evidence of identity. Documentary evidence of identity may consist of a driver's license, identity card, school record, medical record, marriage record, passport, or other similar document

serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his or her signature on the application for a social security number. A birth certificate alone is not sufficient evidence to establish identity except where the applicant is a child under 7 years of age, there is no other documentary evidence of identity available and there is no reason to doubt the validity of the birth certificate, the social security number application, or the existence of the individual.

(d) *Evidence of U.S. citizenship.* Generally, an applicant for an original, duplicate, or corrected social security number card may prove that he or she is a U.S. citizen by birth by submitting a birth certificate or other evidence of age or identity, as described in paragraphs (b) and (c) of this section, that shows a U.S. place of birth. Where a foreign-born applicant claims U.S. citizenship, the applicant for a social security number or a duplicate or corrected social security number card is required to present documentary evidence of U.S. citizenship. If required evidence is not available, a social security number card will not be issued until satisfactory evidence of U.S. citizenship is furnished. Any of the following is acceptable evidence of U.S. citizenship for a foreign-born applicant:

(1) Certificate of naturalization;
(2) Certificate of citizenship;
(3) U.S. passport;
(4) U.S. citizen identification card issued by INS;
(5) Consular report of birth (State Department Form FS–240 or FS–545); or
(6) Other verification from the Immigration and Naturalization Service, U.S. Department of State, or Federal or State court records confirming citizenship.

(e) *Evidence of alien status.* An applicant for a social security number or a duplicate or corrected social security number card who is not a U.S. citizen is required to submit, as evidence of alien status, a current document issued by the Immigration and Naturalization Service in accordance with that agency's regulations. The document must show that the applicant has been lawfully admitted to the United States either for permanent residence or under authority of law permitting him or her to work in the United States, or that the applicant's alien status has changed so that it is lawful for him or her to work. If the applicant fails to submit such a document, a social security number card will not be issued. If the applicant submits an unexpired Immigration and Naturalization Service document(s) which shows current authorization to work, a social security number will be assigned or verified and a card which can be used for work will be issued. If the authorization of the applicant to work is temporary or subject to termination by the Immigration and Naturalization Service, the SSA records may be so annotated. If the document(s) does not provide authorization to work and the applicant wants a social security number for a work purpose, no social security number will be assigned. If the applicant requests the number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the number may be assigned and the card issued will be marked with a nonwork legend. The SSA record will be annotated to show that a number has been assigned and a card issued for a nonwork purpose. In that case, if earnings are later reported to SSA, the Immigration and Naturalization Service will be notified of the report. SSA may also notify that agency if earnings are reported for a social security number that was valid for work when assigned but for which work authorization was later terminated by the Immigration and Naturalization Service. SSA may also annotate the record with other remarks, if appropriate.

(f) *Failure to submit evidence.* If the applicant does not comply with a request for the required evidence or other information within a reasonable time, SSA will attempt another contract with the applicant. If there is still no response, a social security number card will not be issued.

(g) *Invalid or expired documents.* SSA will not issue an original, duplicate, or corrected social security number card when an applicant presents invalid or expired documents. Invalid documents are either forged documents that supposedly were issued by the custodian of the record or properly issued documents that were improperly changed after they were issued. An expired document is one that was good for only a limited time and that time has passed.

6. Section 422.110 is revised to read as follows:

§ 422.110 Individual's request for change in record.

Form SS–5 should be completed and signed by any person who wishes to change the name or other personal identifying information previously submitted in connection with an application for a social security number card. The person must prove his or her identity and may be required to provide other evidence. (See § 422.107 for evidence requirements.) Form SS–5 may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any SSA office, or, if the individual is outside the U.S., to the Veterans Administration Regional Office, Manila, Philippines, or to any U.S. Foreign service post or U.S. military post. If the request is for a change in name, a new social security number card bearing the same number previously assigned will be issued to the person making the request.

§ 422.112 [Amended]

7. Section 422.112 is amended in paragraph (a) by changing "Secretary of Health, Education, and Welfare" to "SSA".

§§ 422.112, 422.115, and 422.120 [Amended]

8. In addition to the amendments and revisions set forth above, remove the words "Bureau of Data Processing and Accounts" and add in their place the words "Office of Central Records Operations" in the following places:

(a) Section 422.112(a);
(b) Section 422.115; and
(c) Section 422.120.

[FR Doc. 88–22460 Filed 9–29–88; 8:45 am]
BILLING CODE 4190–11–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88–455, RM–6397]

Radio Broadcasting Services; Dora, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Randolph M. Howes, proposing the allotment of FM Channel 254A to Dora, Alabama, as that community's first local FM service. Reference coordinates used for proposed Channel 254A at Dora are 33–43–42 and 87–05–24.

DATES: Comments must be filed on or before November 17, 1988, and reply comments on or before December 2, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Timothy K. Brady, Esq., P.O. Box 986, Brentwood, TN 37024–0986.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–455, adopted August 30, 1988, and released September 26, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–22446 Filed 9–29–88; 8:45 am]

BILLING CODE 6712–01–M

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14 CFR Part 73

[MM Docket No. 88–449, RM–6329]

Radio Broadcasting Services; Seligman, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Rick L. Murphy seeking the allotment of FM Channel 251A to Seligman, Arizona, as its first local broadcast service. However, the proponent is requested to provide additional information in an effort to establish that Seligman is a *bona fide* "community" for allotment purposes. Reference coordinates utilized for this proposal are 35–19–36 and 112–52–30.

DATES: Comments must be filed on or before November 17, 1988, and replay comments on or before December 2, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert L. Olender, Esq., Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street NW., Suite 302, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–449, adopted August 23, 1988, and released September 26, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–22447 Filed 9–29–88; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–451, RM–6352]

Radio Broadcasting Services; Ludlow, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Rick L. Murphy seeking the allotment of FM Channel 289A to Ludlow, California, as its first local broadcast service. However, the proponent is requested to provide additional information in an effort to establish that Ludlow is a *bona fide* "community" for allotment purposes. Reference coordinates utilized for this proposal are 34–43–24 and 116–09–54.

DATES: Comments must be filed on or before November 17, 1988, and reply comments on or before December 2, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Robert L. Olender, Esq., Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street NW., Suite 302, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–451, adopted August 23, 1988, and released September 26, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transportation Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadscasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–22448 Filed 9–29–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88-452, RM-6312]

Radio Broadcasting Services; Garapan, Saipan

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to substitute Channel 280C2 for Channel 230A at Garapan, Saipan, and to modify the construction permit for Station KZMI(FM) accordingly, in response to a petition filed by the permittee, Inter-Island Communications, Inc. Coordinates for Channel 280C2 are North Latitude 15-12-26 and East Longitude 145-43-20.

DATES: Comments must be filed on or before November 17, 1988, and reply comments on or before December 2, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20544.

In addition to filing comments with the FCC, interested parties should serve the petitioners or their counsel or consultant, as follows: Peter Gutmann, Pepper & Corazzini, 200 Montgomery Building, 1776 K Street NW., Washington, DC 20006 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-452, adopted August 23, 1988, and released September 26, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-22449 Filed 9-29-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-450, RM-6403]

Radio Broadcasting Services; Moulton, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Moulton Broadcasting Company, Inc., proposing the allotment of FM Channel 276A to Moulton, Alabama, as that community's first local FM service. Reference coordinates used for proposed Channel 276A at Moulton are 34-31-10 and 87-15-48.

DATES: Comments must be filed on or before November 17, 1988, and reply comments on or before December 2, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner's consultant, as follows: Larry G. Fuss, Contemporary Communications, P.O. Box 4010, Opelika, AL 36803.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-450, adopted August 23, 1988, and released September 26, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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* contact.

For inforamtion regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-22450 Filed 9-29-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-448, RM-6404]

Radio Broadcasting Services; Mountain View, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by James M. Hunt, permittee on Channel 244A at Mountain View, Missouri, proposing the substitution of Channel 245C2 for Channel 244A, and modification of his permit to specify operation on Channel 245C2. The coordinates used for Channel 245C2 at Mountain View are 36-59-29 and 91-47-41.

DATES: Comments must be filed on or before November 17, 1988, and reply comments on or before December 2, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John R. Wilner, Bryan, Cave, McPheeters, & McRoberts, 1015 Fifteenth Street NW., Washington, DC 20005, (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-448, adopted August 18, 1988, and released September 26, 1988. The full text of this Commission decision is available for inspection and copying

during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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 Section 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

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 88–22451 Filed 9–29–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88–396; FCC 88–272]

Broadcast Services; Term of Affiliation or Two-Year Rule

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the modification or elimination of the "term of affiliation" of "two-year rule," 47 CFR 73.658(c), as it pertains to broadcast television stations. This rule has been in effect, without modification, since 1945, and a reevaluation is appropriate to determine its continued validity in today's marketplace. This action recommends modification or repeal of the "term of affiliation" or "two-year rule" based on the Commission's belief that the rule may no longer assist in the development of new networks and may actually inhibit the ability of existing networks and broadcast stations to withstand competition from new delivery systems.

DATES: Comments in this proceeding are due November 14, 1988; reply comments are due November 29, 1988.

ADDRESS: Federal Communications Commission, Washington, DC., 20554.

FOR FURTHER INFORMATION CONTACT: Linda Blair, Mass Media Bureau, Policy and Rules Division.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (*Notice*), MM Docket No. 88–396, adopted August 4, 1988, and released September 23, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Room Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. This proceeding is initiated to reexamine 47 CFR 73.658(c), the "term of affiliation" or "two-year rule," as it pertains to television broadcast stations. This rule limits the term of affiliation agreements between networks and stations to a maximum of two years. Originally promulgated for radio networks in 1941, the rule was applied to television in 1945 to ensure that potential competitors to the existing television networks had an opportunity to negotiate for affiliation with stations. The Commission abolished the rule for radio in 1977 as being obsolete. However it remains in effect for television. The purpose of this review is to determine whether the two-year rule is still valid for today's television industry.

2. This action proposes modification or repeal of the "two-year rule" based on changed market conditions. Specifically, the Commission believes that the increased number of broadcast outlets and the proliferation of alternative video delivery systems provide attractive means for entrepreneurs to develop competing "networks" without relying on aggregating a group of affiliated broadcast stations. Thus the rule may not longer be necessary to promote the entry of new television networks into the marketplace. Furthermore, we believe deletion of the rule may facilitate extended financial planning by both networks and stations, thus promoting the economic health and growth of networks and affiliates. We seek comment on the relevance of the rule as it now exists, on whether modification of the rule is called for, and if so, what modifications are appropriate. Most importantly, we seek comment on whether the public interest would best be served by elimination of the "two-year rule." We emphasize that our purpose in initiating this proceeding is not to undertake a sweeping review of our network television rules, but rather to examine one specific rule that may no longer be justifiable from a public interest perspective.

Ex Parte Information

3. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1229 of the Commission's Rules 47 CFR 1.1229, for rules governing permissible *ex parte* contacts.

Initial Regulatory Flexibility Analysis Statement

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed modification would have a positive impact on a substantial number of small entities because it would relieve television broadcasters of the restraints imposed by the "two-year rule." Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

5. The Secretary shall cause a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq., (1981)).

Paperwork Reduction Act Statement

6. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to decrease the information collection requirement on the public. This reduction in information burden is subject to approval by the Office of Management and Budget, as prescribed by the Act.

Comment Information

7. Pursuant to applicable procedures set forth in §§1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before November 14, 1988, and reply comments on or before November 29, 1988. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Authority Citation

8. Authority for this proposed rulemaking is contained in sections 4(i) and (j), and 303 of the Communications Act of 1934, as amended.

List of Subjects

47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88-22445 Filed 9-29-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on the Proposed Endangered Status for the Clover Valley Speckled Dace and Independence Valley Speckled Dace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period is again reopened on the proposal to determine endangered status for the Clover Valley speckled dace *(Rhinichthys osculus oligoporus)* and Independence Valley speckled dace *(Rhinichthys osculus lethoporus)*. The Service believes that the comment period should be reopened to ensure the accuracy of any final decision concerning the appropriateness of listing the two subspecies. It is recognized that this is an unusual procedure, but it is the Service's goal to base its final decision on the best scientific information available.

DATE: The comment period on this proposal is reopened until October 31, 1988. Comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Written comments and materials concerning this proposal should be sent to the Fish and Wildlife Administrator, U.S. Fish and Wildlife Service, Great Basin Complex-Reno, 4600 Kietzke Lane, Building C, Reno, Nevada 89502. Comments and materials received will be available for public inspection during normal business hours, by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Randy McKnatt, at the above address (702/784-5227 or FTS 470-5227).

SUPPLEMENTARY INFORMATION:

Background

The Independence Valley and Clover Valley speckled daces are very limited in distribution in northeastern Nevada. Both are in jeopardy because of their extremely limited distrubution, the vulnerability of their habitats to perturbation by human irrigation practices, and the introduction of non-native aquatic species.

A proposal of endangered status for both fish was published in the **Federal Register** (52 FR 35282) on September 18, 1987. The comment period on the proposal originally closed on November 17, 1987. A notice extending the comment period to February 1, 1988, was published on December 3, 1987 (52 FR 45976). An additional 60-day extension of the comment period to April 25, 1988, was published in the **Federal Register** on February 24, 1988 (53 FR 5434). The Service is reopening the comment period to obtain additional information on the status of the species with regard to available conservation measures. Written comments may now be submitted until October 31, 1988, to the Service office in the Addresses section.

Author

The primary author of this notice is Dr. Kathleen E. Franzreb, Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, E-1823, Sacramento, California 95825 (916/978-4866 or FTS 460-4866).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411; Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plant (agriculture).

Dated: September 22, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-22426 Filed 9-29-88; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 53, No. 190
Friday, September 30, 1988

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

Office of the Secretary

Determination of the Market Stabilization Price for Sugar for Fiscal Year 1989

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice sets forth the market stabilization price for sugar for the period October 1, 1988–September 30, 1989 as 21.80 cents per pound, raw value. The market stabilization price is needed to determine bond requirements and maximum liabilities under certain programs authorized by Presidential Proclamation No. 5002 of November 30, 1982 (47 FR 54269).

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: John Nuttall, Foreign Agricultural Service, Department of Agriculture, Washington, DC 20250, Telephone: (202) 447–2916.

SUPPLEMENTARY INFORMATION: The market stabilization price is used to determine bond requirements and maximum liabilities under certain programs authorized by Presidential Proclamation No. 5002 of November 30, 1982 (47 FR 54269). The calculation of the market stabilization price is provided for in 7 CFR 6.300–6.302 and is the sum of (1) The price support level for the applicable fiscal year, expressed in cents per pound of raw cane sugar; (2) adjusted average transportation costs; (3) interest costs, if applicable; and (4) 0.2 cent per pound. The adjusted average transportation costs are the weighted average costs of handling and transporting domestically produced raw cane sugar from Hawaii to Gulf and Atlantic Coast points, as determined by the Secretary. Interest costs are the amount of interest, as determined and estimated by the Secretary, that would be required to be paid by a recipient of a price support loan for raw cane sugar upon repayment of the loan at full maturity. Interest costs shall only be applicable where, as under the current sugar price support program, a price support loan recipient is not required to pay interest upon forfeiture of the loan collateral.

The Secretary of Agriculture has announced that the applicable loan rate under the price support program for sugar, expressed in cents per pound for raw cane sugar, will be 18.00 cents per pound for loans disbursed during the period October 1, 1988–September 30, 1989.

Accordingly, after appropriate review, it has been determined that the market stabilization price for fiscal year 1989 shall be 21.80 cents per pound. This consists of the 18.00 cents per pound loan rate; adjusted average transportation costs of 2.97 cents per pound; an interest cost of .63 cent per pound; and 0.2 cent per pound. The transportation factor represents costs for 1988 projected forward to 1989 by applying a projected increase in the Producer Price index for finished goods over this time. The interest factor is based on an estimated average interest rate of 7 percent over the year, and a six month loan maturity period.

Notice is hereby given that, in conformity with the provisions of 7 CFR 6.300(a), the market stabilization price for sugar for fiscal year 1989 has been determined to be 21.80 cents per pound.

Signed at Washington, DC, on September 28, 1988.

Peter C. Myers,

Acting Secretary of Agriculture.

[FR Doc. 88–22690 Filed 9–29–88; 8:45 am]

BILLING CODE 3410–10–M

Commodity Credit Corporation

1988 Crop Soybeans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determinations with respect to 1988 Crop Soybeans.

SUMMARY: The purpose of this notice is to affirm the preliminary announcement that the level of price support for the 1988 soybean crop is $4.77 per bushel. This preliminary announcement is made pursuant to section 210(i) of the Agricultural Act of 1949, as amended (the "1949 Act"). In accordance with section 1009 of the Food Security Act of 1985, as amended, any determinations with respect to implementation of cost reduction options will be made at a later date.

EFFECTIVE DATE: August 12, 1988.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Commodity Analysis Division, ASCS–USDA, P.O. Box 2415, Washington, DC 20013, Telephone (202) 447–4417. A preliminary impact analysis has been prepared and is available from the above named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under Department of Agriculture procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 1017 of the Food Security Act of 1985 provides that the Secretary of Agriculture shall determine the rate of loans, payments and purchases under a program established under the Agricultural Act of 1949 (the "1949 Act") for any of the 1986 through 1990 crops without regard to the requirements for notice and public participation. Accordingly, public comments are not requested with respect to the level of loans and purchases under the price support program for the 1988 crops of soybeans.

It has been determined that the Regulatory Flexibility Act is not

applicable to this notice since the Commodity Credit Corporation is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Section 201(i)(1)(A) of the 1949 Act provides that the price of soybeans for each of the 1986 through 1990 marketing years shall be supported through loans and purchases. Section 201(i)(1)(B) provides that the support price for the 1986 and 1987 crops of soybeans shall be $5.02 per bushel. Section 201(i)(1)(C) provides that the support price for each of the 1988 through 1990 crops shall be established at a level equal to 75 percent of the simple average price received by producers for soybeans in the preceding 5 marketing years excluding the years with highest and lowest prices, except that the level of support may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel. Calculating 75 percent of the simple average market price received by producers for soybeans for the 5 marketing years preceding the 1988 marketing year, excluding the years with the highest and lowest prices, results in a price of $4.31 per bushel. Since this price is more than 5 percent below the level of price support established for the preceding crop of soybeans (i.e. $5.02 per bushel), prior to any adjustments, the level of support for the 1988 crop of soybeans using this formula is $4.77.

If the Secretary of Agriculture determines in accordance with section 201(i)(2) that the price support level for soybeans determined for a marketing year would discourage the exportation of soybeans and cause excessive stocks of soybeans in the United States, the Secretary may reduce the price support level for soybeans by the amount the Secretary determines necessary to maintain domestic and export markets for soybeans, except that the price support level cannot be reduced by more than 5 percent in any year nor below $4.50 per bushel. Any reduction made in accordance with section 210(i)(2) in the price support level for soybeans shall not be considered in determining the price support level for soybeans for subsequent years.

Section 201(i)(5) of the 1949 Act provides that the Secretary shall make a preliminary announcement of the level of price support for a crop of soybeans not earlier than 30 days prior to September 1, the beginning of the soybean marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full informtion and statistics are available. The final level of price support must be announced no later than October 1 of the marketing year to which the announcement is applicable. The final level of support cannot be less than that of the preliminary announcement.

Section 201(i)(3) of the 1949 Act provides that, if the Secretary determines that such action will assist in maintaining the competitive relationship of soybeans in domestic and export markets after taking into consideration the cost of producing soybeans, supply and demand conditions, and world prices for soybeans, the Secretary may permit a producer to repay a loan for a corp at a level that is the lesser of (1) the announced loan level for such crop or (2) the prevailing world market price for soybeans, as determined by the Secretary. If the Secretary permits a producer to repay a loan as described above, the Secretary shall prescribe by regulation (1) a formula to define the prevailing world market price for soybeans and (2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for soybeans.

Section 1009(a) of the Food Security Act of 1985 provides that, whenever the Secretary determines that an action authorized by section 1009 (c), (d) or (e) will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small and medium sized producers participating in such programs, the Secretary shall take such action with respect to that commodity program. These actions include: (1) The commercial purchases of commodities by the Secretary; (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount and accumulated interest, but not less than the principal amount, if such action will result in: (A) Receipt of a portion rather than none of the accumulated interest, (B) avoidance of default of the loan, and (C) elimination of storage, handling and carrying charges on the forfeited loan collateral; and (3) the reopening of a production control or loan program established for a crop at any time prior to harvest of such crop for the purpose of accepting bids from producers for the conversion of acreage planted to a program crop to diverted acreage in return for in-kind payments if the Secretary has determined that: (1) Changes in domestic or world supply or demand conditions have subtantially changed after announcement of the program for that crop and (2) without action to further adjust production, the Federal Government and producers will be faced with a burdensome and costly surplus. Such payments are not subject to the maximum payment limitation provision of section 1001 of the Food Security Act of 1985 but are limited to $20,000 per year per producer for any one commodity.

A press release was issued on August 12, 1988, which made a preliminary announcement of the loan and purchase level for the 1988 crop of soybeans of $4.77 per bushel. The purpose of this notice is to affirm that determination.

Determinations

A. Loan and Purchase Level

The preliminary announcement with respect to the price support level for the 1988 crop of soybeans is that it shall be $4.77 per bushel.

B. Cost Reduction Options

The decision to implement any cost reduction will be made at a later date.

Section 210 of the Agricultural Act of 1949, as amended, 63 Stat. 1052, as amended (7 U.S.C. 1446(i)).

Signed at Washington, DC, on September 16, 1988.

Peter C. Myers,

Acting Secretary.

[FR Doc. 88-22489 Filed 9-29-88; 8:45 am]

BILLING CODE 3410-05-M

1988 Crop Sugar Beets and Sugarcane Price Support Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination.

SUMMARY: This notice announces the national price support loan rates established by the Secretary of Agriculture with respect to the 1988 crop of domestically grown sugar beets and sugarcane. The national (weighted average) loan rate for raw cane sugar will be 18.00 cents per pound. The national (weighted average) loan rate for refined beet sugar will be 21.37 cents per pound. Both of these rates will be further adjusted to reflect the processing location of the sugar offered as collateral for a price support loan (i.e., location differentials). This notice also sets forth the minimum price support levels to be paid sugarcane and sugar beet producers. Both the differentials and the minimum price support levels have been reduced by 1.4 percent in order to reduce program outlays as mandated by the Agricultural Act of 1949.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Lynda Flament, Price Support Branch, Cotton, Grain and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447-4229. Copies of the Regulatory Impact Analysis are available from Jane K. Phillips, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013.

SUPPLEMENTARY INFORMATION:

Rulemaking Matters

This notice has been reviewed under USDA procedures established in accordance with the provisions of Departmental Regulation 1512-1 and Executive Order 12291 and has been classified as "major" since this action may have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, land use, and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This notice sets forth determinations with respect to the following issues which are briefly described:

1. Loan Rates

Section 201(j) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985, provides that the Secretary of Agriculture is required to support the price of the 1986 through 1990 crops of sugar beets and sugarcane through nonrecourse loans. Section 201(j) further provides that the Secretary shall support the price of domestically grown sugarcane at such level as the Secretary determines appropriate, but not less than 18.00 cents per pound, raw value, and the price of domestically grown sugar beets at such level as the Secretary determines is fair and reasonable in relation to the loan level for sugarcane.

2. Location Differentials

The application of location differentials to loan rates is common to most price support programs administered by CCC. The loan rates for sugar processed in specific regions will be based upon the transportation costs associated with moving sugar to the markets that are normal for those regions.

3. Minimum Price Support Levels

The minimum price support levels are the minimum amounts that must be paid to producers by a processor participating in the price support loan program. The minimum price support levels are set forth by regions. In general, these support levels would be reflected in contracts between individual processors and producers for the 1988 crop of sugar beets and sugarcane.

4. Determination of Average Quality or Recovery of Sugar Per Net/Gross Ton

The minimum price support levels may be adjusted for sugarcane or sugar beets of non-average quality. Accordingly, "average quality" is defined.

5. Cost Reduction Options

Section 1009(a) of the Food Security Act of 1985 provides that whenever the Secretary determines that an action authorized by that section will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small- and medium-sized producers participating in such program, the Secretary shall take such action with respect to that commodity program. For the purposes of the sugar price support program, these actions include: (1) The commercial purchases of commodities by the Secretary; and (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount and accumulated interest, but not less than the principal amount, if such action will result in: (A) receipt of a portion rather than none of the accumulated interest, (B) avoidance of default of the loan, or (C) elimination of storage, handling, and carrying charges on the forfeited loan collateral.

These determinations are required to be made in accordance with the provisions of section 201(j) of the Agricultural Act of 1949 and section 1009 of the Food Security Act of 1985. Section 1017(b) of the Food Security Act of 1985 provides that the Secretary shall determine the rate of loans and price support levels for any of the 1986 through 1990 crops of commodities covered under the Agricultural Act of 1949 without regard to the requirements for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Determination

1. Loan Rates

The national (weighted average) loan rate for the 1988 crop (as defined in 7 CFR 1435.302(k), the 1988 crop generally consists of sugar beets and sugarcane processed during the period July 1, 1988 through June 30, 1989) shall be 21.37 cents per pound for refined beet sugar and 18.00 cents per pound for cane sugar, raw value, including the cane sugar, raw value, contained in refined cane sugar, sugarcane syrup, and edible molasses. This is the minimum statutory loan rate for cane sugar. It has been determined that the loan rate established for sugar beets is fair and reasonable in relation to the loan level for sugarcane. In the case of refined or specialty sugar made from raw cane sugar, the rate shall be the appropriate regional rate applied to the quantity of the refined or specialty sugar converted to an equivalent quantity of cane sugar, raw value.

The 1988 loan rate for refined beet sugar reflects the value of the sugar based on the relationship between the weighted average of grower returns for sugar beets and the weighted average of grower returns for sugarcane, expressed on a cents per pound basis for refined beet sugar and raw cane sugar, for the immediately preceding 10-year period. After adjustment to reflect the proper price relationship, the estimated 1988 sugar beet crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of the sugar) are added to make up the basic loan rate for refined beet sugar. This is the same method that was used for the 1987 crop.

2. Location Differentials

The loan rates determined for both raw cane sugar and refined beet sugar have been adjusted to reflect the processing location of the sugar offered as collateral for a price support loan. These adjustments (i.e., location differentials) have been calculated in

the same manner as they have been in previous years. In addition, they have been reduced by 1.4 percent persuant to the requirements of section 201(j)(7) of the Agricultural Act of 1949. The loan rates for sugar processed in specific regions have been based upon the transportation costs associated with moving that sugar to the markets that are normal for those regions.

The processing regions and applicable 1988 crop regional loan rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound of refined sugar
1. Michigan and Ohio	21.94
2. Minnesota and the eastern half of N. Dakota	21.04
3. Northeastern quarter of Colorado; Nebraska; and the southeastern quarter of Wyoming	20.91
4. Texas	21.74
5. Montana and the northwestern quarter of Wyoming and western half of N. Dakota	20.90
6. That part of Idaho east of the eastern boundary of Owyhee County and of such boundary extended northward	20.55
7. That part of Idaho west of the eastern boundary of Owyhee County and of such boundary extended northward; Oregon	20.55
8. California	21.34

NOTE: Fixed marketing expenses are considered in computation to insure equality with support prices for sugarcane.

The processing regions and applicable 1988 regional crop loan rates for cane sugar, raw value, shall be as listed below except that, for such sugar processed in Hawaii or Puerto Rico but placed under loan on the mainland of the United States, the applicable loan rate shall be 18.00 cents per pound:

Region	Cents per pound, raw sugar value
Florida	17.76
Louisiana	18.27
Texas	18.03
Hawaii	17.42
Puerto Rico	17.19

NOTE: Molasses is a by-product of sugar processing. It is not included in the calculation of the sugar loan rate.

3. Minimum Price Support Levels

Based on the established regional loan rates, the minimum price support levels for sugar beets and sugarcane of average quality processed in the indicated regions are as follows:

For 1988 crop sugar beets:

Region (same as in previous beet sugar table)	Support price per net ton
1.	[1] $29.53
2.	[2] 30.45
3.	31.16
4.	33.74
5.	31.21
6.	31.46
7.	31.46
8.	32.55

[1] If (1) the sugar extracted by a processor from the 1988 crop yields, on the average, less than 223.62 pounds per net ton of sugar beets delivered and accepted by the processor, or (2) the processor's net return on by-products per net ton of sugar beets delivered and accepted by the processor average less than $8.86 per net ton, then the required minimum price support rate per ton of sugar beets will be adjusted. The adjusted rate will be determined by: (a) multiplying $0.2091 (the loan rate per pound less $.0103 considered as fixed marketing expenses) by the average pounds and hundredths of pounds of sugar extracted per ton, (b) adding thereto the net return to the processor on by-products per net ton on sugar beets delivered and accepted, and (c) multiplying the result by 53.1 percent.

[2] If (1) the sugar extracted by a processor from the 1988 crop yields, on the average, less than 251.68 pounds per net ton of sugar beets delivered and accepted by the processor, or (2) the processor's net return on by-products per net ton of sugar beets delivered and accepted by the processor averages less than $6.99 per net ton, then the required minimum price support rate per ton of sugar beets will be adjusted. The adjusted rate will be determined by:

(a) Multiplying $0.2001 (the loan rate per pound less $.0103 considered as fixed marketing expenses) by the average pounds and hundredths of pounds of sugar extracted per ton, (b) adding thereto the net return to the processor on by-products per net ton of sugar beets delivered and accepted, and (c) multiplying the result by 53.1 percent.

For 1988 crop sugarcane in Florida $24.71 per net ton.

For 1988 crop sugarcane in Louisiana $20.38 per gross ton.

For 1988 crop sugarcane in Texas $16.89 per gross ton.

For 1988 crop sugarcane in Hawaii $22.17 per net ton.

For 1988 crop sugarcane in Puerto Rico $16.52 per gross ton.

The prices indicated above must be adjusted for sugar beets or sugarcane of nonaverage quality if the producer and processor have agreed upon a method for such adjustment in the terms and conditions of their marketing contract.

4. Average Quality Sugar Beets and Sugarcane

For 1988 crop sugar beets, "average quality" means sugar beets containing 15.57 percent sucrose.

For 1988 crop sugarcane processed in Florida, "average quality" means sugarcane containing 14.26 percent sucrose in normal juice.

For 1988 crop sugarcane processed in Louisiana, "average quality" means sugarcane which 179.1 pounds of raw sugar per gross ton.

For 1988 crop sugarcane processed in Texas, "average quality" means sugarcane which yields 147.8 pounds of raw sugar per gross ton.

For 1988 crop sugarcane processed in Hawaii, "average quality" means sugarcane which yields 242.2 pounds of raw sugar per net ton.

For 1988 crop sugarcane processed in Puerto Rico, "average quality" means sugarcane which yields 140.2 pounds of raw sugar per gross ton.

5. Cost Reduction Options

The decision not to implement any cost reduction options as outlined in the Supplementary Information above has been made.

The Secretary reserves the right to initiate at a later date any action not previously included but authorized by section 1009 of the Food Security Act of 1985.

Signed at Washington, DC, on September 16, 1988.

Peter C. Myers,

Acting Secretary of Agriculture.

[FR Doc. 88-22468 Filed 9-29-88; 8:45 am]

BILLING CODE 3410-05-M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda And Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the California Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 10:00 p.m. on October 5, 1988, at the Airport Marriott, 5855 West Century Boulevard, Los Angeles, California 90045. The purpose of the meeting is to plan activities and discuss the upcoming forum on higher education.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Deborah Hesse or Philip Montez, Director of the Regional Division (213) 894-3437, (TDD 213/894/0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 26, 1988.

Melvin Jenkins,

Acting Staff Director.

[FR Doc. 88-22418 Filed 9-29-88; 8:45 am]

BILLING CODE 6335-01-M

South Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the South Dakota Advisory Committee to the Commission will convene at 3:30 p.m. and adjourn at 6:00 p.m. on October 6, 1988, at the University of South Dakota School of Law, State Bar Conference Room, 100 West 8th Street, Vermillion, South Dakota 57069. The purpose of the meeting is to plan project activities for the new charter period and to discuss civil rights issues affecting the State of South Dakota.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Francis Whitebird or Philip Montez, Director of the Regional Division (213) 894-3437, (TDD 213/894/0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 26, 1988.

Melvin Jenkins,

Acting Staff Director.

[FR Doc. 88-22419 Filed 9-29-88; 8:45 am]

BILLING CODE 6335-01-M

Foreign-Trade Zones Board

[Docket 35-84]

Foreign-Trade Zone 23, Buffalo, NY; Withdrawal of Application for Proposed Subzone at the Ontario Knife Co.

Notice is hereby given of the withdrawal of the application submitted by the County of Erie, New York, grantee of Foreign-Trade Zone 23, for a subzone at the Ontario Knife Company plant in Franklinville, Cattaraugus County, New York. The application was filed on August 22, 1984 (49 FR 34380, 8/30/84). It was opposed by the domestic steel industry.

The case has been withdrawn without prejudice and FTZ Board Docket 35-84 is closed.

Dated: September 26, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88-22557 Filed 9-29-88; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: International Trade Administration/Import Administration, 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 may request, in accordance with section 353.53a or 355.10 of the Commerce Regulations, that the Department of Commerce ("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 October 31, 1988, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceeding:	
Italy: Pressure Sensitive Plastic Tape (A-475-059)	10/01/87-09/30/88
Japan: Steel Wire Rope (A-588-045)	10/01/87-09/30/88
Japan: Tapered Roller Bearings, and Parts Thereof, Finished or Unfinished (A-588-604)	03/27/87-09/30/88
People's Republic of China: Barium Chloride (A-570-007)	10/01/87-09/30/88
People's Republic of China: Cotton Shop Towels (A-570-003)	10/01/87-09/30/88
Countervailing Duty Proceeding:	
Brazil: Certain Agricultural Tillage Tools (C-351-406)	01/01/87-12/31/87
India: Certain Iron-Metal Castings (C-533-063)	01/01/87-12/31/87
Iran: Roasted In-Shell Pistachios (C-507-601)	01/01/87-12/31/87
New Zealand: Certain Steel Wire Nails (C-614-701)	07/21/87-12/31/87
Sweden: Certain Carbon Steel Products (C-401-401)	01/01/87-12/31/87
Thailand: Certain Steel Wire Nails (C-549-701)	07/21/87-12/31/87

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by October 31, 1988.

If the Department does not receive by October 31, 1988 a request for review of entries covered by an order or finding 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.

Date: September 23, 1988.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 88-22556 Filed 9-29-88; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-017]

Bricks From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 28, 1988, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on bricks from Mexico. We have now completed that review and determine the total bounty or grant to be zero or *de minimis* for 25 companies, 21.71 percent *ad valorem* for Ceramica Exy, 13.50 percent *ad valorem* for Ladrillera Mecanizada, and 3.32 percent *ad valorem* for all other companies during the period July 1, 1984 through December 31, 1984. We determine the total bounty or grant to be zero or *de minimis* for 26 companies, 43.76 percent *ad valorem* for Ceramica Exy, 33.72 percent *ad valorem* for Ladrillera Mecanizada, and 4.21 percent *ad valorem* for all other companies during the period January 1, 1985 through December 31, 1985.

EFFECTIVE DATE: September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Jean M. Carroll or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 15264) the preliminary results of its administrative review of the countervailing duty order on bricks from Mexico. The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Mexican bricks. Such merchandise is currently classifiable under item numbers 532.1120 and 532.1140 of the Tariff Schedules of the United States Annotated. These products are currently classifiable under Harmonized System item 6904.10.00—0. The review covers the period July 1, 1984 through December 31, 1985 and the following programs: (1) FOMEX; (2) FOGAIN; (3) FONEI; (4) CEPROFI; (5) Article 15 or 94 loans; (6) CEDI; (7) NDP discounts; (8) Delay of payments on loans; (9) Delay of payments to PEMEX of fuel charges; (10) Import duty reductions and exemptions; (11) State tax incentives; and (12) Bancomext loans.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. On May 31, 1988, we received comments from one respondent, Productos de Barro Industrializados, S.A.

Comment 1: Productos points out that the Department made a clerical error in using an incorrect average peso-to-dollar exchange rate for 1985.

Department's Position: We agree and have revised our calculations accordingly. We also corrected an error in the weight-averaging of the benefits for the period July 1, 1984 through December 31, 1984. In addition, we found that two companies, Ceramica Exy and Ladrillera Mecanizada, have significantly different benefits and should receive company-specific rates.

Adjusting for these corrections, we determine the "all other" benefit from FOMEX to be 2.61 percent *ad valorem*, from FOGAIN to be 0.44 percent *ad valorem*, from CEPROFI to be 0.11 percent *ad valorem*, and from FONEI to be 0.16 percent *ad valorem*, resulting in a total "all other" benefit of 3.32 percent *ad valorem* for the period July 1, 1984 through December 31, 1984. We determine the "all other" benefit from FOMEX to be 3.64 percent *ad valorem*, from FOGAIN to be 0.36 percent *ad valorem*, from CEPROFI to be zero, and from FONEI to be 0.21 percent *ad valorem*, resulting in a total "all other" benefit of 4.21 percent *ad valorem* for the period January 1, 1985 through December 31, 1985. We determine the total bounty or grant to be 21.71 percent *ad valorem* for Ceramica Exy and 13.50 percent *ad valorem* for Ladrillera Mecanizada during the period July 1, 1984 through December 31, 1984. We determine the total bounty or grant to be 43.76 percent *ad valorem* for Ceramica Exy and 33.72 percent *ad valorem* for Ladrillera Mecanizada during the period January 1, 1985 through December 31, 1985.

For duty deposit purposes, the benefit from FOMEX is zero or *de minimis* for 26 companies, zero for Ceramica Exy, 1.91 percent *ad valorem* for Ladrillera Mecanizada and 1.02 percent *ad valorem* for all other companies. The decrease in the FOMEX rate results in the following rates for duty deposit purposes: zero for 26 companies, 43.76 percent *ad valorem* for Ceramica Exy, 29.17 percent *ad valorem* for Ladrillera Mecanizada, and 1.60 percent *ad valorem* for all other companies.

Comment 2: Productos argues that, because it is subject to the "all other" assessment and duty deposit rates, it requires access to the proprietary information from other respondent companies whose company-specific benefits are used in calculating the "all other" rate. Productos needs the information in order to check the accuracy of the Department's calculations. Productos applied for access to this information under administrative protective order (APO) in a timely manner, but the Department did not respond to the application until after the comments on the preliminary results were due. When the Department did respond, it only granted information from companies that did not object to releasing their proprietary data. The Department denied Productos access to information from those companies that objected to releasing their proprietary data.

The Department's denial is unjustified. According to the countervailing duty law and its legislative history, maximum availability of information to all interested parties is given a high priority. See S. Rep. No. 249, 96th Congress, 1st Session 100 (1979); H.R. Report No. 317, 96th Congress, 1st Session 77 (1979). The Department routinely grants access under APO to counsel for petitioners over the objections of respondents. The Department's apparent distinction between petitioners and respondents regarding access to information under APO is not consistent with either the statute or the Department's regulations.

Department's Position: We considered Productos' request when the request was made during the review. We denied the request for the reasons stated in the decision memorandum attached to the APO (June 29, 1988). We will not address this issue again because there is no longer any relief that we can grant. If Productos did not agree with our determination to deny access to certain information, the proper remedy was to appeal the determination to the Court of International Trade while this review was in progress. 19 U.S.C. 1677(f)(c)(2).

Comment 3: Productos contends that the Department must revoke the countervailing duty order on bricks from Mexico. Effective April 23, 1985, the date of the Understanding between the United States and Mexico Regarding Subsidies and Countervailing Duties ("the Understanding"), the United States Trade Representative designated Mexico "a country under the Agreement" as defined in section 701 of the Tariff Act of 1930. Since Mexico is now a "country under the agreement," section 701, rather than section 303, applies to all Mexican cases. Section 701 entitles Mexico to a determination by the International Trade Commission ("ITC") that the subject merchandise materially injures or threatens material injury to a United States industry producing a like product. Pursuant to section 701, the Department cannot impose countervailing duties on any merchandise from Mexico without an affirmative ITC injury determination. Since the ITC has indicated that it does not have the authority to conduct an injury investigation on merchandise already subject to an outstanding order, the Department should revoke this order.

Department's Position: As we have explained in numerous final results notices, we believe that we lack the authority to revoke any countervailing duty order on Mexican products on the basis of the Understanding. We confirmed with the principal U.S. negotiators that the intent of Article 5 of the Understanding was to exclude from the application of the Understanding and hence the application of "country under the Agreement" status, order existing before April 23, 1985. *See, e.g., Portland Hydraulic Cement and Cement*

Clinker from Mexico; Final Results of Countervailing Duty Administrative Review, (51 FR 44501, December 10, 1986), *Certain Iron Metal Construction Castings from Mexico; Final Results of Countervailing Duty Administrative Review* (51 FR 9698, March 20, 1986), and *Portland Hydraulic Cement and Cement Clinker; Final Results of Administrative Review* (52 FR 18325, May 23, 1988).

Comment 4: Productos maintains that the Department's contention that the injury provision of the Understanding affects only countervailing duty orders issued after April 23, 1985 is in error. In a recent Court of International Trade (CIT) decision, *Cementos Anahuac del Golfo, S.A. v. United States*, 12 CIT ___, Slip Op. 88–58 (May 12, 1988), the court determined that after the effective date of the Understanding, countervailing duties could only be imposed on Mexican merchandise following an affirmative ITC injury determination, regardless of whether the countervailing duty order was issued before or after the effective date of the Understanding. The court remanded the review, instructing the Department to follow section 701 rather than section 303. The Department should do the same in this case.

Department's Position: The CIT's decision in *Cementos Anahuac del Golfo, S.A. v. United States* ("Anahuac I") applies only to the *Portland Hydraulic Cement and Cement Clinker from Mexico; Final Results of Administrative Review* covering the period July 1, 1983 through December 31, 1983. Moreover, we are appealing the *Anahuac I* decision.

The respondent ignores an even more recent decision in the cement proceeding, *Cementos Anahuac del Golfo, S.A. v. United States*, Slip Op. 88–75, (June 9, 1988), ("Anahuac II"), which supports our position that the Understanding does not require an affirmative injury determination for Mexican countervailing duty orders issued before April 23, 1985.

Comment 5: Productos contends that, even if the Department continues to believe that section 303 applies to this case, the Department still cannot impose countervailing duties on entries covered by this review because section 303(a)(2) requires an affirmative injury determination for duty-free products from a country with which the United States has an international obligation. Although the Department has interpreted the phase "international obligation" to refer only to the General Agreement on Tariffs and Trade (GATT), the court found in *Anahuac I*, and Productos agrees, that the Understanding also constitutes such an international obligation. Because the subject merchandise enters free of duty, section 303(a)(2) rather than section 303(a)(1) applies to this case. Under similar circumstances in three previous countervailing duty proceedings, *Certain Fasteners from India* (47 FR 44129), *Carbon Steel Wire Rod from Trinidad and Tobago* (50 FR 19511), and *Certain Scissors and Shears from Brazil* (50 FR 11927), the Department determined, or preliminarily determined, that it did not have the authority to impose countervailing duties without an affirmative ITC injury determination. The same reasoning applies to this case.

Department's Position: As explained in our response to comment 4, we are appealing the *Anahuac I* decision. Additionally, the court's decision in *Anahuac II* support our position. In the three cases cited by the respondent, the exporting countries were GATT members and the merchandise was duty-free during the potential assessment period. None of these cases is analogous to the present case because Mexico was not a member of the GATT at the time the duty-free bricks covered by this review were imported. See also, *Portland Hydraulic Cement and Cement Clinker from Mexico; Final Results of Countervailing Administrative Review*, (53 FR 18325, May 23, 1988).

Comment 6: Productos argues that the Department lacks the statutory authority to impose countervailing duties on all merchandise covered by this review because such imposition would take place well after April 23, 1985, the effective date of the Understanding. In *Anahuac I*, the court agreed with the plaintiffs' assertion that the Department's assessement and collection of countervailing duties after the effective date of the Understanding would violate section 701, even if the entries were made before the effective date of the Understanding.

Department's Position: We disagree. We discussed this issue at length in *Portland Hydraulic Cement and Cement Clinker from Mexico; Final Results of Countervailing Duty Administrative Review*, (53 FR 18325, May 23, 1988). Furthermore, we are appealing the *Anahuac I* decision, and once again, Productos ignores the court's decisions in *Anahuac II* and *Cementos Guadalajara, S.A. et al v. United States*, Slip Op. 88–48, (April 27, 1988), which support our view that the importers' liability for countervailing duties is established at the time the merchandise is entered, even though the actual amount of duty is determined and assessed at a later date.

Firms Not Receiving Benefits

We determine that the following firms received zero or *de minimis* benefits during the period July 1, 1984 through December 31, 1984:

(1) Arturo Cavazos Jacques
(2) Blanca Salvidar Gonzalez
(3) Bloquera Rio Bravo
(4) Bloques, Ladrillos y Materiales de Piedras Negras
(5) Elias Martines Ledezma
(6) Ferretera y Maderera La Popular
(7) Fidel Contreras Varela
(8) Hipolito Martinez Martinez
(9) Jose Adrian Risoul
(10) Ladrillera Cantu
(11) Ladrillera El Jaboncillo
(12) Ladrillera Guadalupana
(13) Ladrillera Industrial, S.A. de C.V.
(14) Ladrillera La Azteca
(15) Ladrillera La Joya, S.A. de C.V.
(16) Ladrillera Reynosa
(17) Ladrillera San Juan
(18) Ladrillera Santa Fe
(19) Ladrillos Reynosa
(20) Lucio Garza Lucero
(21) Luis de Hoyos Villareal
(22) Materiales Salinas, S.A.
(23) Mosaicos El Aguila, S.A.
(24) Productos de Barro La Zacatosa
(25) Ricardo Francisco Garza Vela

For the period January 1, 1985 through December 31, 1985, we determine that 26 firms (the 25 firms listed above and Ladrillera Monterrey) received zero or *de minimis* benefits.

Final Results of Review

After reviewing all of the comments received, we determine the total bounty or grant to be zero or *de minimis* for 25 companies, 21.71 percent *ad valorem* for Ceramica Exy, 13.50 percent *ad valorem* for Ladrillera Mecanizada and 3.32 percent *ad valorem* for all other companies during the period July 1, 1984 through December 31, 1984.

We determine the total bounty or grant to be zero or *de minimis* for 26 companies, 43.76 percent *ad valorem* for Ceramica Exy, 33.72 percent *ad valorem* for Ladrillera Mecanizada, and 4.21 percent *ad valorem* for all other companies during the period January 1, 1985 through December 31, 1985.

The Department will therefore instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from the the 25 firms listed above and to assess countervailing duties of 21.71 percent of the f.o.b. invoice price on shipments of this merchandise from Ceramica Exy, 13.50 percent of the f.o.b. invoice price on shipments of this merchandise from Ladrillera Mecanizada, and 3.32 percent of the f.o.b. invoice price on shipments

from all other firms exported on or after July 1, 1984 and on or before December 31, 1984. We will also instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from the 25 firms listed above and Ladrillera Monterrey, and to assess countervailing duties of 43.76 percent of the f.o.b. invoice price on shipments of this merchandise from Ceramica Exy, 33.72 percent of the f.o.b. invoice price on shipments of this merchandise from Ladrillera Mecanizada, and 4.21 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1985 and on or before December 31, 1985.

The Department will also instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on any shipments of merchandise from the 25 firms listed above and Ladrillera Monterrey, and to collect a cash deposit of estimated countervailing duties of 43.76 percent of the f.o.b. invoice price on shipments from Ceramica Exy, and, due to the change in FOMEX interest rates, to collect a cash deposit of estimated countervailing duties of 29.17 percent of the f.o.b. invoice price on shipments from Ladrillera Mecanizada and 1.60 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Jan W. Mares,

Assistant Secretary for Import Administration.

Date: September 23, 1988.

[FR Doc. 88-22555 Filed 9-29-88; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 80870-8170]

Proposed Voluntary Product Standard TS233; Glass Bottles for Carbonated Soft Drinks

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice: Public review of proposed voluntary product standard.

The National Institute of Standards and Technology is giving public notice that it is distributing proposed Voluntary Product Standard TS233 "Glass Bottles for Carbonated Soft Drinks" to determine its acceptability. This distribution is being made in accordance with the provisions of 10.6 of the Department of Commerce "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as amended; 51 FR 22496 dated June 20, 1986).

This Voluntary Product Standard was developed in response to a request from the Glass Packaging Institute (GPI), which is its sponsor, and is intended to improve and maintain safety performance of glass bottles used as containers for carbonated soft drinks. Manufacturing requirements and inspection and testing procedures are included that are necessary to establish conformance of bottles to the standard, and terminology is used that is intended to provide a basis for common understanding among producers, distributors, users, and other interested parties of the characteristics of these products.

A Standing Committee, composed of representatives of soft-drink bottle manufacturers (GPI), soft drink bottlers (National Soft Drink Association), consumers, and others with an interest in this subject, developed this standard as a replacement for Voluntary Product Standard PS73-77 on "Carbonated Soft Drink Bottles."

Copies of this proposed standard may be obtained from the Office of Standards Management, A625, Building 101, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone: 301-975-4023. Written comments concerning the standard should be submitted to the Office of Standards Management on or before November 30, 1988.

Ernest Ambler,

Director.

Dated: September 23, 1988.

[FR Doc. 88-22469 Filed 9-29-88; 8:45 am]

BILLING CODE 3510-13-M

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coastal Zone Management: Federal Consistency Appeal by Jay C. Poole From an Objection by the South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Dismissal of appeal.

On July 20, 1987, Jay C. Poole (Appellant) filed a notice of appeal with the Secretary of Commerce under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), in response to an objection by the South Carolina Coastal Council (SCCC) to Appellant's consistency certification for U.S. Army Corps of Engineers Permit Application No. 86-2C-367, under section 10 of the River and Harbor Act of 1899 and section 404 of the Federal Water Pollution Control Act. Appellant's project involves excavation of a boat slip and construction of a bulkhead, with associated backfill, in wetlands on the Black River in Georgetown County, South Carolina.

Appellant has failed to submit his brief and supporing data by the due date set by the Department of Commerce. Because he has so failed, the Under Secretary for Oceans and Atmosphere of the Department has dismissed the appeal for good cause pursuant to 15 CFR 930.128. Appeallant is barred from filing another appeal from the SCCC's objection to his consistency certification.

FOR ADDITIONAL INFORMATION CONTACT: Stephanie S. Campbell, Attorney/Adviser, Office of the Assistant Geneal Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673-5200.

(Federal Domestic Assistant Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: September 23, 1988.

Melvin N.A. Peterson,

Acting Under Secretary for Oceans and Atmosphere.

[FR Doc. 88-22458 Filed —88; 8:45 am]

BILLING CODE —M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on October 17, 1988 at 9:00 a.m. at the Greenbrier Resort, West Virginia.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and

includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97–63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of the Minutes
III. USTTA Strategic Plan
IV. Status Report on Bilateral Negotiations
V. Other Business
A. Establish Next Meeting Date
VI. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

M.J. Rodgers, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202–377–0136) will respond to public requests for information about the meeting.

Charles E. Cobb, Jr.,

Under Secretary for Travel and Tourism, U.S. Department of Commerce.

[FR Doc. 88–22553 Filed 9–29–88; 8:45 am]

BILLING CODE 3510–11–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1988; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1988 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E.R. Alley, Jr. (703) 557–1145.

SUPPLEMENTARY INFORMATION:

On August 5, 1988, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (53 FR 29511) of proposed addition to Procurement List 1988, December 10, 1987 (52 FR 46926).

Comments were received from the current contractor for the distribution of forms and publications for the U.S. Department of Agriculture, Landover, Maryland. That contractor questioned the decision by the Department of Agriculture to use its own employees to perform a portion of the service, given a previous decision to contract for the service as a result of a cost comparison under the provisions of Office of Management and Budget Circular A–76. Objections to the conversion by the Department of Agriculture of a portion of this service for provision by Government employees should be raised with that agency. That decision is not germane to this action and, therefore, was not considered by the Committee in deciding whether to add the service to the Procurement List.

The commenter also stated that the addition of this service to the Procurement List would result in loss of jobs for current workers. The Committee recognizes that a loss of business may require a firm to lay off or reassign the employees who were formerly providing the service involved. However, the primary purpose of the Committee's program is to create job opportunities for blind and severely handicapped individuals who are unable because of their disabilities to obtain competitive employment and to assist in the rehabilitation of those individuals through work (House Report 92–228, May 25, 1971). This action will create employment for severely handicapped individuals in fulfillment of that purpose.

Finally, the commenter indicated that this addition to the Procurement List would adversely affect his firm. The value of the contract represents about 8.4% of the annual sales of the commenter's firm. This is not considered to be a serious adverse impact.

After consideration of the relevant comments, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to provide the service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1988: Forms/Publication Distribution, U.S. Department of Agriculture, Landover, Maryland.

E.R. Alley,

Deputy Executive Director.

[FR Doc. 88–22545 Filed 9–29–88; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1988; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1988 services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E.R. Alley, Jr., (703) 557–1145.

SUPPLEMENTARY INFORMATION:

On July 29 and August 12, 1988, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (53 FR 28681 and 30459) of proposed additions to Procurement List 1988, December 10, 1987 (52 FR 46926).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1988:

Janitorial/Custodial, U.S. Post Office, Courthouse and Social Security Administration, District Office, Hot Springs, Arkansas.
Janitorial/Custodial, U.S. Army Reserve Center, Lock Haven, Pennsylvania.

E.R. Alley,

Deputy Executive Director.

[FR Doc. 88-22546 Filed 9-29-88; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number:

DOD FAR Supplement Part 8, Required Sources of Supplies and Services and Part 52.208; No Form; and OMB Control Number 0704-0205.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 30 minutes.

Frequency of Response: On occasion.

Number of Respondents: 20,400.

Annual Burden Hours: 439,383.

Annual Responses: 100,425.

Needs and Uses: Defense requirements for vaious components used in various items are restricted to U.S. manufacturing sources in order to assure an adequate domestic production base. Recordkeeping is necessary to assure compliance with these requirements.

Affected Public: Businesses or other for-profit; Non-profit institutions; and Small businesses or organizations.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Eyvette R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone (202) 746-0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 27, 1988.

[FR Doc. 88-22543 Filed 9-29-88; 8:45 am]

BILLING CODE 3810-01-M α

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number:

DoD Survey of Recruit Socioeconomic Status; Questionnaire; and No OMB Control Number.

Type of Request: New Collection.

Average Burden Hours/Minutes Per Response: .166 hours.

Frequency of Response: On occasion and during sample days each year.

Number of Respondents: 19,000.

Annual Burden Hours: 3,167.

Annual Responses: 19,000.

Needs and Uses: This survey collects socioeconomic background information from a representative sample of new recruits to the active-duty military. It will provide annual data with which to describe the socioeconomic whole. The data will be included in an annual report to Congress on population representation in the U.S. military. The data will be used by members of Congress and DoD policy makers in the debate over the relative merits of voluntary accession and alternative means of recruitments.

Affected Public: Individuals or households.

Respondents Obligation: Voluntary.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone (202) 746-0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 27, 1988.

[FR Doc. 88-22544 Filed 9-29-88; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Availability of Change 2 to DoD 5025.1-I, "DoD Directives System Annual Index"

ACTION: Notice.

SUMMARY: This notice is to inform the public and U.S. Government Agencies other than the Department of Defense of the availability of Change 2 to DoD 5025.1-I, January 1988 edition. The Change may be purchased from the following organizations:

National Technical Information (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, Telephone number (703) 487-4600

OR

U.S. Naval Publications and Forms Center (NPFC), 5801 Tabor Avenue, Attention: Code 1062, Philadelphia, Pennsylvania 19120-5099, Telephone number (215) 697-3321.

The NTIS accession number for Change 2 is PB89 100705; NPFC identifies it as Change 2 to DoD 5025.1-I.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bynum, Correspondence and Directives Directorate, Directives Division, Room 2A286, the Pentagon, Washington, DC 20301-1155, telephone number (202) 697-4111.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 27, 1988.

[FR Doc. 88-22542 Filed 9-29-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 19-20 October 1988.

Time: 0800-1700 hours each day.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic.

Missile Defense (Follow-On) will meet for classified briefings and discussions reviewing matters that are an integral part of or related to the issue of the study effort. The subgroup is tasked with a comprehensive review of BMD requirements, technology, and specific issues. These meetings will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-22476 Filed 9-29-88; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of The Committee: Army Science Board (ASB).

Dates of Meeting: 11-14 October 1988.

Time: 0900-1700 hours each day.

Place: United States Army, Europe Headquarters.

Agenda

The Army Science Board Ad Hoc Subgroup on Close Combat Training Strategy for the 1990's will meet for discussions with Division and Corps Commanders in the USAREUR theater. These meetings will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-22595 Filed 9-28-88; 11:56 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.061F]

Inviting Applications for New Awards for Fiscal Year 1989 Under the Indian Education Act of 1988, Subpart 2, Section 5321(d) (Formerly Part B, Section 1005(d)—Educational Personnel Development

Purpose: Provides grants to institutions of higher education, local or State educational agencies in combination with institutions of higher education to: (1) Prepare persons to serve Indian students as educational personnel or ancillary educational personnel; (2) improve the qualifications of persons serving Indian students in these capacities; or (3) provide in-service training to persons serving Indian students in these capacities.

Deadline for Transmittal of Applications: December 9, 1988.

Applications Available: October 21, 1988.

Available Funds: $1,169,000.

Estimated Range of Awards: $97,000-$213,000.

Estimated Average Size of Awards: $146,100.

Estimated Number of Awards: 8.

Estimated Amounts for Stipends: For projects that involve the payment of stipends to participants, the estimated maximum stipend in fiscal year 1989 will be $600 per month for graduate students and $375 per month for undergraduate students. An estimated maximum allowance of $90 per month will be paid for each dependent.

Project Period: 12, 24, or 36 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 256, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 80.

For Applications or Information Contact: Elsie Janifer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2166, Washington, DC 20202. Telephone: (202) 732-1918.

Program Authority: 25 U.S.C. 2621(d).

Dated: September 23, 1988.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 88-22592 Filed 9-29-88; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.061F]

Inviting Applications for New Awards for Fiscal Year 1989 Under the Indian Education Act of 1988, Subpart 2, Section 5322 (Formerly Part B, Section 422)—Educational Personnel Development

Purpose: Provides grants to institutions of higher education, Indian tribes and Indian organizations to (1) prepare persons to serve Indian students as educational personnel or ancillary educational personnel; (2) improve the qualifications of persons serving Indian students in these capacities; or (3) provide in-service training to persons serving Indian students in these capacities.

Deadline for Transmittal of Applications: December 9, 1988.

Applications Available: October 21, 1988.

Available Funds: $1,093,000.

Estimated Range of Awards: $93,000-$222,000.

Estimated Average Size of Awards: $137,000.

Estimated Number of Awards: 8.

Estimated Amounts for Stipends: For projects that involve the payment of stipends to participants, the estimated maximum stipend in fiscal year 1989 will be $600 per month for graduate students and $375 per month for undergraduate students. An estimated maximum allowance of $90 per month will be paid for each dependent.

Project Period: 12, 24, or 36 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 256, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 80.

For Applications or Information Contact: Elsie Janifer, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2166, Washington, DC 20202. Telephone (202) 732-1918.

Program Authority: 25 U.S.C. 2622.

Dated: September 23, 1988.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 88-22593 Filed 9-29-88; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.003]

Office of Bilingual Education and Minority Languages Affairs

AGENCY: Department of Education.

ACTION: Notice extending the closing date for new awards for certain

Bilingual Education Programs for Fiscal Year 1989.

SUMMARY: The Secretary of Education extends the closing date for applications for new awards under the Program of Transitional Bilingual Education, Special Alternative Instructional Program, Special Populations Program, Training Development and Improvement Program and Short-Term Training Program.

On August 19, 1988, five different notices were published that established the closing dates for transmittal of applications for fiscal year 1989 competitions under the programs as listed in the chart below (53 FR 31736–31738). Detailed information concerning the programs is included in those Notices. The purpose of this Notice is to extend the closing date for transmittal of applications in order to allow applicants time to respond to those Notices.

Title of program and CFDA No.	Original closing date for transmittal of applications	Extended closing date for transmittal of applications	Extended deadline for intergovernmental review
Transitional Bilingual Education: 84.003A	Oct. 7, 1988	Nov. 1, 1988	Jan. 3, 1989.
Special Alternative: 84.003E	do	do	Do.
Special Populations: 84.003L	do	do	Do.
Short-Term Training: 84.003V	do	do	Do.
Training Development and Improvement: 84.003S	do	do	Do.

FOR APPLICATIONS OR INFORMATION CONTACT: For further information contact the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 5628, Mary E. Switzer Building), Washington, DC 20202–6641. Telephone: (202) 732–1843.

Program Authority: 20 U.S.C. 3281 et seq.

Dated: September 23, 1988.

Alicia **Coro,**

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 88–22456 Filed 9–29–88; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.047]

Notice Inviting Applications for New Awards Under the Upward Bound Program for Fiscal Year 1989

Purpose of Program: To provide grant awards to carry out projects designed to generate in student participants the skills and motivation necessary for success in education beyond high school.

Deadline for Transmittal of Applications: November 18, 1988.

Applications Available: October 7, 1988.

Funds Available: The Congress has not appropriated funds for Fiscal Year 1989 for the Special Programs for the Disadvantaged. The estimates in this notice are based on the FY 1988 appropriation level. However, the actual level of funding is contingent upon final congressional action.

Estimated Range of Awards: $110,000–$475,000.

Estimated Average Size of Awards: $180,000.

Estimated Number of Awards: 420.

The Department is not bound by any estimates in this notice.

Project Period: 36 months.

Applicable Regulations: Regulations applicable to the Upward Bound Program are: (a) the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78, and (b) regulations governing Upward Bound in 34 CFR Part 645.

Application Preparation Workshops: The Division of Student Services, Education Outreach Branch will conduct a pre-application workshop to be transmitted via satellite by the Office of Satellite Communications, Howard University, Washington, DC from 2:30–5:00 p.m., October 17, 1988. Showings will be held at various sites across the United States and all interested applicants are invited to attend. Institutions or agencies that would like to host a showing may do so for a $25.00 fee. Please call the Satellite Network at 1–800–634–5337 to make arrangements. Interested potential viewers should call 1–800–634–5337 for the location of the nearest showing.

For Applications or Information Contact: Mrs. Goldia Hodgdon, Chief, Education Outreach Branch, Division of Student Services, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, DC 20202–5334.

Telephone Number: (202) 732–4804.

Program Authority: 20 U.S.C. 1070d, 1070d–1a.

Dated: September 22, 1988.

(Catalog of Federal Domestic Assistance Number: 84.047—Upward Bound Program)

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88–22455 Filed 9–29–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Intention To Issue a Restricted Solicitation for the Conduct of Demand-Based Conservation Demonstrations to Northeast Utilities or Energy Service Providers Serving Rural Areas

AGENCY: Department of Energy (DOE).

ACTION: The U.S. DOE announces that pursuant to 10 CFR 600.7(b)(1) it is restricting eligibility for award of grants under solicitation number DE–PSO1–89CE27493 to applications received from Northeast energy utilities or energy service providers serving rural areas.

SUMMARY: The U.S. DOE Office of Building Services, is planning to issue a restricted solicitation inviting applications to be submitted for conducting demonstrations that can be utilized in carrying out Least-Cost Utility Program (LCUP) planning to support the efforts of utilities, regulators and the public to understand the contributions that demand side programs can make to the supply of efficient, reliable and low cost energy services. The program focuses on four research areas: technology assessment; market penetration analysis; integrated utility planning and technology transfer to utilities; and regulators and the public. It is the intent of the Department to award up to 10 grants with FY '89 appropriations. Award(s) totaling not more than $700,000 with mandatory cost sharing of $350,000 are subject to the availability of funds.

Eligibility: Applications for award are restricted for demonstration to the Northeast rural areas.

Northeast is defined as the nine states comprising the Northeast Census Region as defined by the U.S. Census Bureau:

Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, and New Jersey. The DOE solicitation defines eligibility restriction in the broadest fashion possible. Any Northeast utility or energy service provider may apply, including public utility districts, investor-owned utilities, municipal utilities and rural electric cooperatives, provided that the demonstration is conducted in a rural area as defined by the U.S. Department of Agriculture in 7 CFR Part 1980–E 81980.402f. This definition is: "A rural area includes all territory of a state that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing area with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States."

A solicitation will be available on or about October 14, 1988. Requests for a copy of the solicitation must be in writing to: U.S. Department of Energy, Office of Procurement Operations, Attn: Document Control Specialist, 1000 Independence Avenue, SW., Washington, DC 20585.

Applications will be due: December 16, 1988.

A pre-application conference will be held on November 18, 1988, at the John F. Kennedy Federal Building at Federal Center, Room E–226, Boston, Massachusetts at 11:00 a.m. Technical and contracting personnel will be available for discussions. The point of contact is: Shari Sterling (202) 586–6191.

Thomas S. Keefe,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 88–22575 Filed 9–29–88; 8:45 am]

BILLING CODE 6450–01–M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. § 6272), the following meeting notice is provided:

A meeting of the Industry Supply Advisory Group (ISAG) to the International Energy Agency (IEA) is scheduled to be held at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:00 a.m. on October 11. The purpose of this meeting is the conduct of the IEA's Sixth Allocation Systems Test (AST–6), and that test is the agenda for the meeting. The meeting is expected to end upon completion of AST–6 as determined by the IEA Secretariat, on or about November 19, 1988.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the ISAG meeting is open only to representatives of members of the ISAG, their counsel, employees of the IEA, employees of the Departments of Energy, Justice, and State, the Federal Trade Commission, and the General Accounting Office, representatives of committees of Congress, representatives of the Commission of the European Communities, and invitees of the IEA.

Issued in Washington, DC, September 27, 1988.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 88–22574 Filed 9–29–88; 8:45 am]

BILLING CODE 6450–01–M

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves the joint determination that safeguards may be effectively applied to the Post-Irradiation Examination Facility of the Korea Advanced Energy Research Institute and the approval of the United States to the alteration in form or content of irradiated fuel elements from the KORI–1 reactor at that facility. The aforementioned determination will be made, and the approval of the United States for the post-irradiation examination of irradiated fuel elements from the KORI–1 reactor will be for the period ending December 31, 1996.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: September 27, 1988.

Richard H. Williamson,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88–22573 Filed 9–29–88; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 88–56–NG]

Great Lakes Gas Transmission Co.; Application To Amend Authorization To Import and Export Natural Gas from Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application to amend authorization to import and export natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 14, 1988, of an application filed by Great Lakes Gas Transmission Company (Great Lakes) requesting an amendment to its natural gas import/export authorization granted by the ERA in Opinion and Order No. 264 issued August 9, 1988. The amendment for which Great Lakes seeks approval would permit it to increase the maximum daily volumes of natural gas it is presently authorized to import and export under a transportation service agreement with TransCanada PipeLines Limited (TransCanada) from 925,000 Mcf to 987,500 Mcf over a term ending November 1, 2005.

Further, Great Lakes requests that the ERA grant an emergency authorization allowing deliveries of the additional daily volumes to commence by November 1, 1988, and to continue until a final determination is made on its application, to meet the peak-day and seasonal requirements of TransCanada's customers in eastern Canada, especially during the 1988–89 winter heating season months.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

To provide all interested persons the opportunity to submit comments in response to the application, the ERA is establishing a 30-day comment period. In light of Great Lakes' request that the ERA issue a temporary emergency authorization to be effective November 1, 1988, we are also establishing an intermediate 15-day period for the filing of comments on that request. The

shortened period will allow the ERA sufficient time to evaluate the comments prior to reaching a decision on whether or not to grant interim import and export authority.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than October 31, 1988. Notwithstanding, all comments on the applicant's request for an interim emergency authorization are to be filed no later than October 17, 1988.

FOR FURTHER INFORMATION CONTACT:

P.J. Fleming, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room 3F–087, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–4819.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: Great Lakes is a Delaware corporation, jointly owned by TransCanada and The Coastal Corporation. Great Lakes currently transports up to 925,000 Mcf per day of natural gas for the account of TransCanada under a contract dated September 12, 1967, as amended. The gas is received from TransCanada at the international boundary near Emerson, Manitoba, where their facilities interconnect and it is redelivered to TransCanada's facilities at the international boundary near Sault Ste. Marie and St. Clair, Michigan. Great Lakes also purchases gas from TransCanada at Emerson for resale in the U.S. They have entered into an August 9, 1988 amendment to their transportation agreement which provides for the additional 62,500 Mcf per day of firm service. None of the gas imported from and exported to TransCanada by Great Lakes under the transportation arrangement is sold or marketed in the United States.

Great Lakes does not possess sufficient pipeline capacity to provide firm transportation for the increased quantities. To render the expanded firm service, Great Lakes proposes to construct approximately 91 miles of 36-inch outside diameter pipeline loops parallel to its existing main line in Minnesota, Wisconsin, and Michigan. Great Lakes also proposes to replace five aerodynamic assembly units at compressor stations along the pipeline. Construction is planned to begin in the fall of 1989. Great Lakes has an application pending with the Federal Energy Regulatory Commission filed under Section 7 of the NGA for a certificate of public convenience and necessity authorizing it to construct and operate the proposed facilities and to transport this increase in deliveries.

To the extent that there is pipeline capacity available above Great Lakes' firm obligations to all its customers, the additional gas supply to be imported for redelivery to TransCanada would be transported through Great Lakes' existing facilities on an interruptible basis while the loops are being installed and the compressor stations modified. The amended agreement provides that during the interim period before construction of the new facilities required to accommodate the increased firm service is completed, the additional volumes delivered by Great Lakes on any day may fluctuate from the contract quantity of 62,500 Mcf. Any underdeliveries during the interim period are expected to be offset by overruns so that, on an annual basis, the volume to be transported is 22.8 Bcf (62,500 Mcf x 365 days). If, due to capacity limitations on its system, Great Lakes is unable to transport 22.8 Bcf of gas during the interim period, TransCanada would receive credit against the monthly demand charges.

Great Lakes asserts that TransCanada needs the increased volumes to avoid peak-day and seasonal deficiencies on its system in eastern Canada, especially during the coming winter heating season months. A substantial portion of this gas would be used to supply Consumers Gas Company Limited (Consumers), the largest natural gas distribution utility in Canada. Consequently, to insure that TransCanada has sufficient gas supplies for winter peaking needs and to prevent curtailment of some firm service by Consumers, particularly to industrial customers, Great Lakes is asking the ERA to authorize the temporary importation of the additional gas, effective November 1, 1988, pending the ERA's issuance of a final decision on the application.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the ERA considers the domestic need for the gas to be exported, and any other issue determined by the Administrator to be appropriate in a particular case. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the import authority and on the domestic need for the gas in their responses on the requested export authority. The applicant asserts that this import and export arrangement will be in the public interest because the increase in transportation volumes for which import and export authorization is being requested is needed to meet TransCanada's system supply requirements in eastern Canada. Parties opposing the arrangement bear the burden of overcoming this assertioin.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and coments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room 3F–056, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., October 31, 1988. Notwithstanding, comments on the applicant's request for interim emergency authorization must be filed no later than 4:30 p.m. e.d.t., October 17, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file

additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Great Lakes' application is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 26, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–22576 Filed 9–29–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER87–34–001 et al.]

Metropolitan Edison Co. et al.; Electric rate, Small power production, and Interlocking Directorate filings

September 27, 1988.

Take notice that the following filings have been made with the Commission:

1. Metropolitan Edison Company

[ER87–34–001]

Take notice that on August 30, 1988, Metropolitan Edison Company (Met-Ed) tendered for filing pursuant to Opinion and Order No. 304 issued July 13, 1988, revised tariff sheets and a refund report.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Minnesota Power & Light Company

[Docket No. ER88–607–000]

Take notice that on September 14, 1988, Minnesota Power & Light Company (Minnesota Power) tendered for filing a revised wheeling rate applicable to United Power Association (UPA). The proposed revision will reduce the rate by 0.11 mills per kwh and will reduce revenues from UPA by $27,720 for the 12-month period ending June 30, 1989. The revised wheeling rate is proposed to take effect on July 1, 1988.

Copies of the proposed rate reduction and contract revisions and statements comparing the sales and revenues therefrom were served on UPA. Copies were also served on the Minnesota Public Utilities Commission.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Mississippi Power & Light Company

[Docket No. ER88–602–000]

Take notice that on September 9, 1988, Mississippi Power & Light Company (MP&L) tendered for filing an extension of a letter agreement for sale of transmission service to Cajun Electric Power Cooperative, Inc.

MP&L requests an effective date of August 31, 1988 for the letter agreement. MP&L requests waiver of the Commission's notice requirements under § 35.11 of the Commission's Regulations.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Mexico

[Docket No. ER88–543–000]

Take notice that on September 16, 1988, El Paso Electric Company (EPE) tendered for filing a letter supplementing the contract filed by Public Service Company of New Mexico (PNM) in this docket. EPE explains in the letter that Article 1(d) of the contract filed in this docket contains a provision which enables EPE to obtain transmission service from PNM under an arrangement where PNM makes transmission available by curtailing its own generation or through economy sales to third parties and EPE sells PNM energy at a price of $18.50 per megawatt hour. The letter states that after discussions with the Commission's staff EPE has agreed with the staff not to sell any such energy without making an additional filing under section 205 of the Federal Power Act providing for such a sale. The letter is intended to supplement the contract with PNM to provide that EPE will not request service from PNM under Article 1(d) and that PNM shall not be required to provide the service set forth in Article 1(d) until such time as EPE has made such a filing providing for such service and the filing has been accepted by the Commission. The letter also states that PNM gives its consent to having the contract supplemented in this manner.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. El Paso Electric Company

[Docket Nos. ER86–368–000, ER86–638–001 and ER86–709–001]

Take notice that on September 13, 1988, El Paso Electric Company tendered for filing a refund report of amounts refunded to Texas New Mexico Power Company. The report shows that the refunds were made through credits to El Paso Electric Company's bills for service in the months of January through April 1988.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER85–646–003 and ER85–647–008]

Take notice that on September 16, 1988, New England Power Company (NEP) tendered for filing a Compliance Refund Report and supporting documentation in accordance with Commission Opinion Nos. 205 and 295–A that required NEP to amortize its Seabrook Unit 2 investment over a ten year period rather than a five year period that had been included in NEP's wholesale rate.

NEP states that appropriate refunds, including interest, were made on August 31, 1988, and that copies of the Report were served on all customers, appropriate State Commissions and the service list in the noted Dockets.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22569 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

Notice of New Docket Prefix Under Order No. 449

September 26, 1988.

Notice is hereby given that, effective October 1, 1988, a new docket prefix has been established for filings made in connection with the Commission's emergency natural gas sale, transportation, and exchange transactions Order No. 449.

On March 12, 1986, the Commission issued a final rule (Order No. 449). The rule added § 284.262(a) to the regulations to provide self-implementing authority for eligible participants, which include interstate pipelines, intrastate pipelines, and local distribution companies, to sell and/or transport natural gas to other eligible participants in emergency situations.

The Order specified that except for pipelines providing other transportation subject to volumetric rate conditions, transporters will not become subject to the conditions of Order No. 436, including the non-discriminatory access and contract demand reduction/conversion conditions, by reason of qualifying emergency transportation under the revised emergency regulations. In order to identifying for compliance purposes filings made under these regulations and assess Commission resources needed to process such filings, it is necessary to establish a new docket prefix, to be designated EM.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22534 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9401-000]

The Halecrest Co.; Intent to Prepare an Environmental Impact Statement, and Notice of Scoping Session and Public Hearings

September 27, 1988.

The staff of the Federal Energy Regulatory Commission has determined that issuance of a license for the construction and operation of the proposed Mount Hope Pumped Storage Hydroelectric Project No. 9401, located on Mount Hope Lake, near the Town of Rockaway in Morris County, New Jersey, would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the proposed project in accordance with the National Environmental Policy Act. The staff's EIS will consider environmental impacts and reasonable alternatives to the proposed action.

Scoping Session

Interested persons and agencies are invited to participate in a scoping meeting to discuss the environmental impact issues associated with the proposed Mount Hope Project. The scoping session will be held on Thursday, November 3, 1988, commencing at 10:00 a.m. in the council chanbers of the Rockaway Town Hall, 65 Mount Hope Road, Rockaway, NJ. Scoping sessions are utilized by the Commission's staff to: (1) Present environmental issues, preliminarily identified for coverage in the EIS, to the public and experts familiar with the Mount Hope Project; (2) receive input from the public and experts on the issues presented; (3) clarify the significance of issues; (4) identify additional issues for EIS treatment; and (5) identify issues that do not merit EIS treatment. Agencies and individuals with environmental expertise and concerns are encouraged to attend the meetings and assist FERC staff in determining the issues to be addressed in the EIS. A preliminary EIS scoping document will be prepared and distributed to interested parties.

Public Hearings

Interested officals and members of the public are invited to express their views about the project in public hearings. The public hearings will be held on Wednesday, November 2, 1988, commencing at 8:00 p.m. in the auditorium at the Jefferson Township High School on Weldon Road, Lake Hopatcong, NJ, and on Thursday, November 3, 1988, commencing at 7:00 p.m. at the Copeland Middle School, Lakeshore Drive, Rockaway, NJ. The public hearings will be conducted by the Commission staff.

At the public hearings persons may give their statements orally or in writing. The hearings will be recorded by a stenographer, and all statements (oral and written) will become part of the public meeting record. In addition, written comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 until November 4, 1988. Written comments should clearly show the following caption on the first page: Mount Hope Pumped Storage Project, Docket No. P-9401-000.

For further information please contact Paul Carrier at (202) 376-9213.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22536 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. MT88-36-000, et al.]

Panhandle Eastern Pipe Line Company, et al.; Natural Gas Pipeline Rate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Company

[Docket No. MT88-36-000]

September 26, 1988.

Take notice that on September 23, 1988, Panhandle Eastern Pipe Line Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and section 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 32-AM
First Revised Sheet No. 32-AN
Second Substitute First Revised Sheet No. 32-AO
First Revised Sheet No. 32-AQ
Original Sheet No. 32-BQ
Original Sheet No. 32-BR
Second Substitute Original Sheet No. 32-BS
Original Sheet No. 32-BU

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

2. Questar Pipeline Company

[Docket No. MT88-2-001]

September 26, 1988.

Take notice that on September 23, 1988, Questar Pipeline Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1-A:

Substitute First Revised Sheet No. 101
Substitute First Revised Sheet No. 102
Substitute Original Sheet No. 112
Substitute Original Sheet No. 113
Substitute Original Sheet No. 114

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

3. Williams Natural Gas Company

[Docket No. MT88-14-001]

September 27, 1988.

Take notice that on September 23, 1988, Williams Natural Gas Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

Revised Fourth Revised Sheet No. 2
Revised Third Revised Sheet Nos. 95 and 96
Revised First Revised Sheet Nos. 97-105
Revised Original Sheet Nos. 106-109

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

4. K N Energy, Inc.

[Docket No. MT88-18-001]

September 27, 1988.

Take notice that on September 23, 1988, K N Energy Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Third Revised Volume No. 1:

Substitute Original Sheet No. 27G
Substitute Original Sheet No. 27H

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. MT88-11-001]

September 27, 1988.

Take notice that on September 23, 1988, Northwest Pipeline Corporation tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1-A:

Third Revised Sheet No. 400
Substitute Original Sheet No. 423
Substitute Original Sheet No. 428
Substitute Original Sheet No. 429

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

6. Valero Interstate Transmission

[Docket No. MT88-28-001]

September 27, 1988.

Take notice that on September 23, 1988, Valero Interstate Transmission Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volumes No. 1:

1st Revised Sheet No. 29.2
Original Sheet No. 29.2a
1st Revised Sheet No. 29.5
Original Sheet No. 29.5a

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

7. Kentucky West Virginia Gas Company

[Docket No. MT88-13-001]

September 27, 1988.

Take notice that on September 23, 1988, Kentucky West Virginia Gas Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Second Revised Volume No. 1:

Substitute First Revised Sheet No. 50
Substitute Original Sheet No. 50A
Substitute Original Sheet No. 52A
Substitute First Revised Sheet No. 53
Substitute Original Sheet No. 54H
Substitute Original Sheet No. 54I
Substitute Original Sheet No. 54J
Substitute Original Sheet No. 72A
Substitute Original Sheet No. 72B
Substitute Original Sheet No. 72C
Substitute Original Sheet No. 72D
Substitute Original Sheet No. 72E
Substitute Original Sheet No. 72G
Substitute Original Sheet No. 72J
Substitute Original Sheet No. 72K
Substitute Original Sheet No. 72L

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

8. Equitrans, Inc.

[Docket No. MT88-8-000]

September 27, 1988.

Take notice that on September 23, 1988, Equitrans, Inc. tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 3:

First Revised Sheet No. 21
Original Sheet No. 21A
Original Sheet No. 21B
Original Sheet No. 23A
First Revised Sheet No. 25
Original Sheet No. 25A
Original Sheet No. 25B
First Revised Sheet No. 27
Original Sheet No. 27A
Original Sheet Nos. 40 through 68

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

9. Phillips Gas Pipeline Company

[Docket No. MT88-5-001]

September 27, 1988.

Take notice that on September 23, 1988, Phillips Gas Pipeline Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and section 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 3
First Revised Sheet No. 4A
First Revised Sheet No. 4B
Original Sheet No. 4C
Original Sheet No. 4D
Original Sheet No. 4E
First Revised Sheet No. 38
Original Sheet No. 38A
Original Sheet No. 38B
Original Sheet No. 38C
First Revised Sheet No. 39

Comment date: October 4, 1988, in accordance with Standard Paragraph K at the end of this notice.

10. Sabine Pipe Line Company

[Docket No. MT88-7-000]

September 27, 1988.

Take notice that on September 23, 1988, Sabine Pipe Line Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, First Revised Volume No. 1:

First Revised Sheet No. 200
Original Sheet No. 200A
Second Revised Sheet No. 204
Second Revised Sheet No. 205
Original Sheet No. 205A
Original Sheet No. 205B
Original Sheet No. 205C
Original Sheet No. 205D
Original Sheet No. 205E
Second Revised Sheet No. 206
Second Revised Sheet No. 207
Second Revised Sheet No. 208
First Revised Sheet No. 229
Original Sheet No. 230
Original Sheet No. 231
Original Sheet No. 232

Standard Paragraphs

K. Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants

parties to the proceeding. Any person wishing to become a party must file a motion with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22540 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-824-000, et al.]

Sea Robin Pipeline Co., et al.; Natural Gas Certificate Filings; Sea Robin Pipeline Co. et al.

Take notice that the following filings have been made with the Commission:

Sea Robin Company

September 23, 1988.

[Docket No. CP88-824-000]

September 23, 1988.

Take notice that on September 20, 1988, Sea Robin Pipeline Company (Sea Robin), Post Office Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-824-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations (18 CFR 284.221) for a blanket certificate of public convenience and necessity authorizing it to perform transportation service on behalf of other interstate pipeline and on behalf of shippers other than interstate pipelines, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that it is requesting blanket certificate authority under section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations, to provide both firm and interruptible transportation services on a self-implementing basis on behalf of both interstate pipelines and shippers other than interstate pipelines, pursuant to § 284.222 and 284.223 of the Commission Regulations, under an "open access" transportation program consistent with Order Nos. 436 and 436-A, as modified by Order No. 500. Sea Robin further states that following the issuance of certificate authorization, such service would be provided pursuant to the term of the ITS and FTS Rate Schedules which are currently being filed. It is averred that these transportation rate schedules incorporates the Commission's "open access" transportation provisions and comply with the Rules and Regulations which govern such transportation, jointly and individually that necessitate this application. It is states that Sea Robin would comply with the conditions set forth in Subpart A of Part 284 of the Commission's Regulations.

COMMENT DATE: October 14, 1988, in accordance with Standard Paragraph F at the end of his notice.

2. Trunkline Gas Company

[Docket No. CP88-830-000]

September 26, 1988.

Take notice that on September 23, 1988, Trunkline Gas Company (Trunkline), P.O. Box 1642 Houston, Texas 77251-1642 filed in Docket No. CP88-830-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act for Citizens Gas Supply Corporation (Citizens), all as more fully set forth in the request on file with the Commission and open to public inspection.

Trunkline proposes to transport natural gas for Citizens, a marketer, pursuant to a transportation agreement dated July 14, 1988. Trunkline explains that service commenced July 16, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-5354. Trunkline further explains that the peak day quantity would be 120,000 dekatherms, the average daily quantity would be 60,000 dekatherms, and that the annual quantity would be 21,900,000 dekatherms. Trunkline explains that it would receive natural gas for Citizens account at 207 points of receipt in Illinois, Louisiana, Tennessee, Texas and offshore Louisiana. Trunkline states that it would redeliver natural gas for Citizen's account at 5 Louisiana points: (1) Patterson, St. Mary Parish to ANR Pipeline Company, (2) Centerville, St. Mary Parish to Columbia Gulf Transmission Corporation, (3) the Conoco Egan Plant, Acadia Parish, (4) Shadyside, St. Mary Parish to Southern Natural Gas Company, and (5) Gillis, Beauregard Parish to Texas Eastern Transmission Corporation. Trunkline indicates that the natural gas to be transported is for the ultimate consumption by 55 specified local distribution companies and endusers.

COMMENT DATE: November 10, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Company Division of Enron Corp.

[Docket No. CP88-814-000]

September 26, 1988.

Take notice that on September 15, 1988, Northern Natural Gas Company, Division of Enron Corp., (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP88-814-000 a request pursuant to §157.205 of the Commission's Regulations to provide transportation service on behalf of Damon Gas Processing Corp., (Damson), under Northern's blanket certificate issued in Docket No. CP86-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern requests authorization to transport, on an interruptible basis, up to a maximum of 300 MMBtu of natural gas per day for Damson, a producer of natural gas. It is stated that Northern will receive the gas in Carson County, Texas, and then redeliver the gas to Damson, also in Carson County, Texas. Northern anticipates transporting 109,500 MMBtu annually.

Northern states that the transportation of natural gas for Damson commenced August 1, 1988, as reported in Docket No. ST88-5279, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Northern in Docket No. CP86-435-000.

Comment date: November 10, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP88-801-000]

September 26, 1988.

Take notice that on September 13, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-801-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86-115-000 pursuant to section 7 of the Natural Gas Act, all as more set forth in the request on file with the Commission and open to public inspection.

Tennessee proposed to transport natural gas for Louisiana Land and Exploration Company (Louisiana Land), a producer. Tennessee explains that service commenced August 2, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88-5535. Tennessee further explains that the peak day quantity would be 50,000 dekatherms, the average daily quantity would be 1,579 dekatherms, and that the annual quantity would be 576,335 dekatherms. Tennessee explains that it would receive natural gas for Louisiana Land's account in the States of Louisiana, Texas, and offshore

Louisiana. Tennessee further explains that, it would redeliver natural gas for the account of Louisiana Land in the State of Louisiana. It is indicated that the gas will ultimately be consumed in the States of New York and New Jersey.

Comment date: November 10, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP88-819-000]

September 26, 1988.

Take notice that on September 16, 1988, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-819-000 a request pursuant to § 284.223 of the Commission's Regulations, for authorization to provide a transportation service for Tejas Power Corporation (Tejas) under Applicant's blanket certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated August 19, 1988, it proposed to transport natural gas for Tejas, a marketer, from points of receipt located in the States of Texas, Louisiana, Mississippi, offshore Texas, and offshore Louisiana, to (1) an interconnection with Transcontinental Gas Pipe Line Corporation located at Crowley, Acadia Parish, Louisiana, (2) an interconnection with Texas Eastern Transmission Corporation located at Old Lady Lake, Terrebonne Parish, Louisiana, and (3) the Blue Water Plant located in Acadia Parish, Louisiana.

The Applicant further states that the maximum daily quantity is 30,000 dekatherms under the contract. Service under § 284.223(a) commenced August 25, 1988, as reported in Docket No. ST88-5639 (filed September 9, 1988).

Comment date: November 10, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Texas Eastern Transmission Corporation

[Docket No. CP88-808-000]

September 26, 1988.

Take notice that on September 14, 1988, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP88-808-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a new delivery point to three existing service agreements with Philadelphia Electric Company (PECO) under the blanket certificate issued in Docket No. CP82-535-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to add a new delivery point, M&R Station No. 2636, to the service agreements with PECO under Rate Schedules SS-II, SS-III and FTS-II of Applicant's FERC Gas Tariff, Fifth revised Volume No. 1. Applicant states that M&R Station No. 2636 would be a new metering facility constructed and owned by PECO in Montgomery County, Pennsylvania, and that Applicant and PECO would execute individual superseding service agreements under Applicant's Rate Schedules SS-II, SS-III and FTS-II. It is indicated that the superseding service agreements would establish a Maximum Daily Delivery Obligation (MDDO) for the new delivery point as follows: 14,000 dt per day for Rate Schedule SS-II, 10,000 dt per day (less applicable shrinkage) for Rate Schedule SS-III, and 13,486 dt per day (less applicable shrinkage) for Rate Schedule FTS-II. Applicant states that there would be no change in MDDO at other existing delivery points nor any increase in the total contract quantities or peak day or annual deliveries. It is asserted that the natural gas quantities delivered to PECO would be utilized as general system supply by PECO.

Comment date: November 10, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Great Lakes Gas Transmission Company

[Docket No. CP88-805-000]

September 26, 1988.

Take notice that on September 14, 1988, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit Michigan 48226, filed in Docket No. CP88-805-000, an application pursuant to section 7(c) of the Natural Gas Act, for an amendment to existing certificates of public convenience and necessity authorizing Great Lakes to provide additional firm gas transportation service of 62,500 Mcf per day for TransCanada PipeLines Limited (TransCanada), and to construct and operate facilities required to provide such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that the TransCanada-Great Lakes gas transportation contract dated September 12, 1967, as amended, currently provides for firm transportation by Great Lakes of up to a maximum of 925,000 Mcf per day of volumes from a point of interconnection between the facilities of Great Lakes and TransCanada on the international boundary at Emerson, Manitoba, to points on the international boundary located at Sault Ste. Marie and St. Clair, Michigan (Sault Ste. Marie and St. Clair Interconnections). Great Lakes further states that TransCanada has requested the transportation of an additional 62,500 Mcf per day to be delivered at the St. Clair Interconnection, which would be necessary to enable TransCanada to meet the needs of distribution companies in Eastern Canada who have requested additional service. To provide this service, Great Lakes indicates that an amendatory agreement dated August 9, 1988, has been executed by the parties, which provides for an increase in the firm transportation volumes by 62,500 Mcf per day, to a total of 987,500 Mcf per day.

Great Lakes states there is an interim period to the proposed service, during which Great Lakes would provide an annual service to TransCanada, prior to completion of the facilities required by Great Lakes to provide the increase in transportation of firm daily contract quantity. Great Lakes further states that the interim period would commence on the first day of the month following the receipt of all regulatory approvals, and terminate when the facilities required to provide the firm daily service are available.

Great Lakes indicates that during the interim period, while the contract quantity would be increased by 62,500 Mcf per day, TransCanada would be able to accept a varying pattern of deliveries from Great Lakes for these additional volumes. Also, it is stated, on some days, due to operational constraints on its system, Great Lakes may not be able to Transport the full increase in contract quantity. Therefore, during the interim period, Great Lakes states that it shall have the right to tender service to TransCanada on a daily basis which may be at variance with the increase in daily contract quantity. Great Lakes indicates that if, on an annual basis, due to capacity limitations on its system, it is unable to transport the additional volumes, TransCanada would receive a credit against its monthly demand charges.

In order to provide the proposed transportation services, Great Lakes proposes to construct and/or install (1) eleven loops totalling 90.8 miles of 36-inch diameter pipe and (2) five aerodynamic assemblies at various Great Lakes' compressor stations.

Great Lakes states that the rate for the transportation of the additional volumes would be the rate effective from time to time under Rate Schedule T–4 of Volumes 2 of Great Lakes' FERC Gas Tariff, applicable for deliveries at the St. Clair Interconnection.

Comment date: October 17, 1988, in accordance with Standard Paragraph F at the end of this notice.

8. Texas Eastern Transmission Corporation

[Docket No. CP88–807–000]

September 26, 1988.

Take notice that on September 14, 1988, Texas Eastern Transmission Corporation (Texas Eastern), Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP88–807–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new sales delivery point to an existing resale customer, Southern Indiana Gas and Electric Company (Southern Indiana), under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Texas Eastern proposes to construct and operate a sales tap, M&R Station No. 2648, in Posey County, Indiana approximately 17 miles upstream of Texas Eastern's existing delivery point, M&R Station No. 539, to Southern Indiana in Gibson County, Indiana. Southern Indiana would reimburse Texas Eastern for the cost of the facilities and would construct and operate the related facilities, it is stated.

Texas Eastern states that the Maximum Daily Delivery Obligation at the proposed delivery point would be 1000 dekatherms and that there would be no increase in the total contract quantities. Texas Eastern proposes to deliver this gas under its Rate Schedules SGS–C and I–C.

Texas Eastern asserts that its existing tariff does not prohibit the addition of the proposed sales tap and that there should be no detriment or disadvantage to its other customers.

Comment date: November 10, 1988, in accordance with Standard Paragraph G at the end of this notice.

9. Tennessee Gas Pipeline Company

[Docket No. CP88–797–000]

September 27, 1988.

Take notice that on September 12, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88–797–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Act (18 CFR 157.205 and 284.223) for authorization to provide a transportation service for Intercon Gas, Inc. under the certificate issued in Docket No. CP87–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated August 15, 1988, it proposes to transport natural gas for Intercon Gas, Inc., a marketer, from points of receipt located in the state of Texas. The points of delivery are located in the various states.

Tennessee further states that the maximum daily quantity is 120,000 dt with an average day of 4,533 dt, and an annual basis of 1,654,545. Service under § 284.223(a) commenced August 18, 1988, as reported in Docket No. ST88–5566 (filed September 6, 1988).

Comment date: November 14, 1988, in accordance with Standard Paragraph G at the end of this notice.

10. Northwest Pipeline Corporation

[Docket No. CP88–822–000]

September 27, 1988

Take notice that on September 19, 1988, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP88–822–000, a request, pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223), for authorization to provide a transportation service for Inland Empire Paper Company (Inland), an end user of natural gas, under Northwest's blanket certificate issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest states that pursuant to an Agreement dated July 14, 1988 under Rate Schedule TI–1, it proposes to transport up to 1,500 MMBtu per day of natural gas for Inland for a term expiring August 1, 1998. Northwest states that the transportation will be from the Green River Gathering Company interconnect in Sweetwater County, Wyoming, the Ignacio Plant in La Plata County, Colorado, the Opal Plant in Lincoln County, Wyoming and the Sumas interconnect with Westcoast Energy Inc. in Whatcom County, Washington to the Spokane Mead Meter Station located at an interconnect with The Washington Water Power Company in Spokane County, Washington.

Northwest also states that no construction of new facilities will be required to provide this transportation service.

Northwest further states that the maximum day, average day, and annual gas delivered volumes would be approximately 1,500 MMBtu, 1,400 MMBtu and 500,000 MMBtu, respectively.

Northwest advises that service under § 284.223(a) commenced August 1, 1988, as reported in Docket No. ST88–5638–000 (filed September 9, 1988).

Comment date: November 14, 1988, in accordance with Standard Paragraph G at the end of this notice.

11. Northwest Pipeline Corporation

[Docket Nos. CP88–784–000 [1] CP88–785–000, CP88–786–000, CP88–787–000, CP88–788–000, CP88–789–000, CP88–790–000]

September 27, 1988.

Take notice that on September 9 and September 12, 1988, Northwest Pipeline Corporation (Northwest), P.O. Box 8900, Salt Lake City, Utah 84108–0900, filed in the above referenced dockets as supplemented September 19, 1988, requests pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide interruptible transportation service for various shippers under Northwest's blanket certificate issued in Docket No. CP86–578–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests which are on file with the Commission and open to public inspection.

Northwest indicates that it would provide the service for each shipper as provided by an executed transportation agreement. In each case Northwest indicates that no new facilities would be required to implement the service. In addition, Northwest states that in each case it would charge rates and abide by the terms and conditions provided by its Rate Schedule TI–1. Northwest has provided other information applicable to each transaction, including the identity of the shipper, the proposed term, the peak day, average day, and annual volumes, and the respective docket numbers and termination dates related to the 120-day transactions initiated under § 284.223 of the Commission's Regulations, which is attached as an appendix.

Comment date: November 14, 1988, in accordance with Standard Paragraph G at the end of this notice.

[1] These applications are not consolidated.

APPENDIX

Docket No.	Proposed term	Shipper	Volumes (MMBtu): Peak Day, Average Day, Annual	Related ST Docket No.	Expiration date, 120-day transaction
CP88-784-000	Month to Month until March 1, 1990	Amoco Production Company	30,000 700 250,000	88-5484-000	10-30-88
CP88-785-000	Month to Month	Washakie Gathering Company	30,000 1,400 500,000	88-5482-000	11-2-88
CP88-786-000	Month to Month	First Zone Production, Inc	1,000 15 6,000	88-5507-000	10-31-88
CP88-787-000	Month to Month	Blackwood & Nichols Co., Ltd	20,000 445 165,000	88-5505-000	10-30-88
CP88-788-000	Month to Month	Meridian Oil, Inc	2,000 55 20,000	88-5506-000	11-01-88
CP88-789-000	Month to Month	Union Oil Company of California	1,500 3,000 1,000,000	88-5403-000	11-26-88
CP88-790-000	Month to Month	Dugan Production Company	1,550 185 70,000	88-5486-000	11-18-88

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22571 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-349-001]

Brooklyn Interstate Natural Gas Corp.; Application for Extension of a Blanket Limited-Term Certificate With Pregranted Abandonment

September 27, 1988.

Take notice that on September 20, 1988, Brooklyn Interstate Natural Gas Corporation (BRING) of 1221 Lamar, Suite 1045, Houston, Texas 77010, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term which expired March 31, 1988, to extend such authorization for an unlimited term, as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 12, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for BRING to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22570 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC88-12-000]

Eastern Shore Natural Gas Co.; Tariff Filing

September 27, 1988.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) filed on September 19, 1988, Tenth Revised Sheet No. 424 to its FERC Gas Tariff, Original Volume No. 1 to be effective November 1, 1988. Such filing is made pursuant to § 281.204(b) of the Commission's Regulations, which requires interstate pipelines to update their respective index of entitlements annually to reflect changes in priority 2 entitlements (Essential Agriculture Users).

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before October 7, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become party to proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22537 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC88-8-001]

Kentucky West Virginia Gas Co.; Amended Curtailment Plan

September 27, 1988.

Take notice that on September 16, 1988,[1] Kentucky West Virginia Gas Company (Kentucky West), P.O. Box 1388, Ashland, Kentucky 41105, filed in Docket No. TC88-8-001, the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Third Revised Sheet No. 54
Second Revised Sheet No. 54A
Second Revised Sheet No. 54B
Second Revised Sheet No. 54C
Second Revised Sheet No. 54D
Second Revised Sheet No. 54E
Second Revised Sheet No. 54F
Second Revised Sheet No. 54G

Kentucky West states that the foregoing tariff sheets amend the gas supply curtailment plan previously proposed in this docket and is its response to certain concerns and suggestions made by the parties previously in this proceeding. The proposed modifications include provision to: (1) Hold the index of entitlement constant during curtailment periods; (2) revise calculation of index of entitlement quantities from a two-year to a one-year rolling base period; (3) provide for demand charge adjustments during curtailment periods; revise parameters for the granting of relief from overrun penalties, and (4) revised the proposed methodology for disbursement of overrun penalties.

Kentucky West states the revised tariff sheets do not include an index of entitlement. Such index is proposed to be filed at a later date. Kentucky West requests that the subject tariff sheets become effective November 1, 1988.

Kentucky West states that copies of this filing were served upon the company's jurisdictional customers and interested state 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, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 7, 1988. Protests will be considered by the Commission in determining the appropriated action to be taken, but will not serve to make protestants parties to the proceeding. Any person not previously granted intervention in this proceeding and wishing to become a party must file a motion Commisison and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22538 Filed 9-29-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4579-055, et al.]

Oxy USA Inc., et al.; Applications for Certificates, Abandonment of Service and Amendment of Certificate[1]

September 28, 1988.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce, to abandon service or to amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make a protest with reference to said applications should on or before October 13, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to interevene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[Filing code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession]

Docket No. and Date Filed	Applicant	Purchaser and Location	Description
G-4579-055, D, 9-6-88	OXY USA Inc., Box 300, Tulsa, OK 74012.	El Paso Natural Gas Company, W.H. King #1, SW/4 Section 6-23S-37E, Lea County, New Mexico.	(1)
G-6342-014, D, 9-12-88	Conoco Inc., P.O. Box 2197, Houston, TX 77252.	El Pas Natural Gas Company, Monument Area, Lea County, New Mexico.	(2)

[1] The application was tendered for filing on September 8, 1988; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until September 16, 1988. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Filing code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession]

Docket No. and Date Filed	Applicant	Purchaser and Location	Description
G-18916-000, D, 9-8-88	Tenneco Oil Comnpany, P.O. Box 2511, Houston, TX 77252.	ANR Pipeline Company, Mocane-Laverne Field, Harper County, Oklahoma.	(2)
CI63-489-001, D, 9-12-88	Tenneco Oil Company	ANR Pipeline company, Various Fields, Woodward, Woods, *et al.*, Counties, Oklahoma.	(4)
CI64-1019-000, D, 9-12-88	Tenneco Oil Company	Texas Gas Transmission Corporation, Sugar Creek Field, Claiborne, Parish, Louisiana.	(5)
CI88-562-000, E, 9-1-88	Mesa Operating Limited Partnership, P.O. Box 2009, Amarillo, TX 79189-2009.	El Paso Natural Gas Company, San Juan, Mesa Verde and Dakota Fields, San Juan and Rio Arriba Counties, New Mexico.	(6)
CI88-581-000, E, 8-22-88	Pelto Oil Company, One Allen Center, Suite 1800, 500 Dallas Street, Houston, TX 77002.	Tennessee Gas Pipeline Company, South Pass Block 42, Plaquemines Parish, Louisiana.	(7)
CI88-601-000 (CI61-1429), B, 8-29-88	Sun Exploration and Production Company, P.O. Box 2880, Dallas, TX 75221-2880.	Texas Easten Transmission Corporation, Hankamer Field, Liberty County, Texas.	(8)
CI88-606-000 (G-18235), D, 9-2-88	OSY USA Inc	Transwestern Pipeline Company Parsell Ranch, Roberts and Hemphill Counties, Texas.	(9)
CI88-608-000 (CI80-162), D, 9-7-88	Tenneco Oil Company operator for G.L.M. Oil & Gas Company.	Williston Basin Interstate Pipeline Company, Lone Butte Field, Richland County, Montana.	(10)
CI88-609-000 (CI86-622-000), D, 9-8-88	ENSTAR Corporation, P.O. Box 2120, Houston, TX 77252-2120.	Northern Natural Gas Company, Division of Enron Corp., Emperor Field, Winkler County, Texas.	(11)
CI88-610-000 (CI86-119-000), D, 9-8-88	ENSTAR Corporation	Northern Natural Gas Company, Division of Enron Corp., Ozona Field, Crockett County, Texas.	(11)
CI88-611-000 (CI86-95-000), D, 9-8-88	ENSTAR Corporation	Texas Eastern Transmission Corporation, Tatum and Carthage Fields, Panola County, Texas.	(11)
CI88-612-000 (CI86-116-000), D, 9-8-88	ENSTAR Corporation	El Paso Natural Gas Company, Toro Field, Reeves County, Texas.	(11)
CI88-613-000 (CI86-106-000), 9-8-88	ENSTAR Corporation	Transwestern Pipeline Company, Hamon Field, Reeves County, Texas.	(11)
CI88-614-000 (CI86-102-000), D, 9-8-88	ENSTAR Corporation	Northern Natural Gas Company, Division of Enron Corp., N.E. Oates Field, Pecos County, Texas.	(11)
CI88-615-000 (CI86-96-000), D, 9-8-88	ENSTAR Corporation	Arkla Energy Resources, a division of Arkla, Inc., North Ruston Field, Lincoln Parish, Louisiana.	(11)
CI88-616-000 (CI86-122-000), D, 9-8-88	ENSTAR Corporation	Northern Natural Gas Company, Division of Enron Corp., N.E. Gomez Field, Pecos County, Texas.	(11)
CI88-617-000 (CI86-114-000), D, 9-8-88	ENSTAR Corporation	El Paso Natural Gas Company, Pembrook Unit, Upton County, Texas.	(11)
CI88-618-000 (CI86-111-000), D, 9-8-88	ENSTAR Corporation	West Texas Gathering Company, Emperor Field, Winkler County, Texas.	(11)
CI88-619-000 (CI86-117-000), D, 9-8-88	ENSTAR Corporation	El Paso Natural Gas Company, South Andrews Field, Andrews County, Texas.	(11)
CI88-620-000 (CI79-657), B, 9-9-88	Conoco Inc	ANR Pipeline Company, Vermilion Block 242, Offshore Louisiana.	(12)
CI88-621-000, E C, 9-14-88	Mesa Operating Limited Partnership.	ANR Pipeline Company, McAtee #1-31 well, Mocane-Laverne Field, Harper County, Oklahoma.	(13)
CI88-622-000 (CI64-998), D, 9-14-88	Tenneco Oil Company	Lone Star Gas Company, Katie Field, Garvin County, Oklahoma.	(14)

[1] Effective September 1, 1987, Applicant assigned its ⅛ interest in the SW/4 Section 6-23S-37E, excluding rights below 4,000 feet, and to the W. H. King #1 wellbore and production therefrom to 4,000 feet, to Veirs Production Company.

[2] Effective March 1, 1988, Applicant assigned certain acreage subject to Applicant's FERC Gas Rate Schedule No. 85, to R. R. Rice.

[3] By assignments dated May 23, 1986, effective January 1, 1986, and dated January 9 and 15, 1987, and December 2, 1986, all effective December 1, 1986, Applicant assigned the Blanchard #1-13 well to Kaiser-Francis Oil Company, the Gebhardt-Zollinger #1-10 and #3-10 to Foran Oil Company, the Highland Unit #1-7 and #2-7 wells to Mesa Operating Limited Partnership and the Earl McAtee Unit #1 to PNG Operating Company. By assignment executed Novermber 17, 1968, effective August 20, 1968, Ashland Oil & Refining Company, Applicant's predecessor-in-interest, assigned the gas rights only in the Tonkawa formation, to Southwest Oil Industries, Inc.

[4] Effective August 6, 1982, and December 1, 1986, Applicant assigned certain interests to Kaiser-Francis Oil Company. Effective November 1, 1986, and December 31, 1986, Applicant assigned certain interests to Prentice, Napier & Green, Inc. Effective December 1, 1986, Applicant assigned certain interests to Vita Oil Company and to Vanguard Oil & Gas, Inc. Effective January 1, 1987, Applicant assigned certain interests to Unit Corporation. Effective December 1, 1987, Applicant assigned certain interests to Maple Properties Corporation.

[5] Effective December 1, 1961, Applicant assigned certain interests to Oil Payments, Inc. Effective June 1, 1971, Applicant assigned certain interests to M.F. McCain.

[6] Effective October 1, 1987, Applicant acquired certain interests from Beta Development Company.

[7] Effective February 10, 1988, Applicant acquired certtain interests from S. Parish Oil Company, Inc., which had acquired the interests from Shell Offshore Inc.

[8] All leases have expired.

[9] By assignments executed July 31, 1987, effective August 1, 1987, Cities Service Oil and Gas Corporation, predecessor to Applicant, assigned all of its remaining righst in Sections 147 and 153, Block 42, H&TC RR Co. Survey, Roberts County, Texas, to OTC Petroleum Corporation. Other leases reverted to the landowner prior to May 31, 1978.

[10] Effective February 14, 1984, Applicant conveyed to Energy Methods Corporation certain interests which are dedicated to Williston under a November 19, 1974, contract on file as G.L.M. Oil & Gas Company FERC Gas Rate Schedule No. 1.

[11] Effective October 1, 1987, Applicant assigned certain interests to Memorial Exploration Company.

[12] The Oil and Gas Lease covering Vermilion Block 242 terminated September 2, 1988. Applicant has no remaining acreage subject to its FERC Gas Rate Schedule No. 462.

[13] Applicant seeks authorization to continue sales under its certificate in Docket No. CI84-295-000 and related FERC Gas Rate Schedule No. 189 from certain interests acquired from Prentice, Napier & Green, Inc.

[14] Effective May 1, 1963, Applicant assigned the Carrie Butler Lease, from the surface down to and including, but not below, the base of the Layton Sand formation, to S.L. Reeves. Applicant also states that it has not retained rights in the deeper depths below the base of the Layton Sand formation.

[FR Doc. 88-22539 Filed 9-29-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP88-257-000]

Sea Robin Pipeline Co.; Tariff Filing

September 26, 1988.

Take notice that on September 20, 1988, Sea Robin Pipeline Company (Sea Robin) filed certain substitute tariff sheets to Original Volume No. 1 to its FERC Gas Tariff.

Sea Robin states that the tariff sheets are filed to enable it to provide continued and new firm and interruptible transportation services pursuant to Order No. 436, as modified by Order No. 500. Sea Robin states that pursuant to a Commission order issued September 16, 1986 in Docket No. RP86-94-005, Sea Robin has been authorized to provide firm and interruptible transportation service pursuant to Part 284 of the Commission's Regulations. According to Sea Robin, the tariff sheets which are filed here are intended to reflect Commission pronouncements regarding open access transportation which have been made subsequent to the September 16, 1986 order, including the modifications to Order No. 436 resulting from Order No. 500. Sea Robin further states that the proposed substitute tariff sheets are intended to clarify certain transportation terms and conditions previously identified by the Staff of the Commission as requiring clarification or which have been set for hearing in Docket Nos. RP86-94-005, RP86-94-006 and RP88-181-000.

Sea Robin further states that upon acceptance of the proposed substitute tariff sheets, it will be able to provide continued and new firm and interruptible transportation service pursuant to section 311 of the Natural Gas Policy Act of 1978 and § 284.102 of the Commission's Regulations. Also, Sea Robin states that it will be able to provide self implementing transportation service for interstate pipelines and other shippers pursuant to § 284.222 and 284.223 of the Regulations.

Concurrent with its filing here, Sea Robin tendered for filing a request for blanket certificate authority to provide transportation pursuant to section 7 of the Natural Gas Act and § 284.221 of the Regulations.

Sea Robin has requested that the Commission permit the proposed substitute tariff sheets to be placed into effect as of November 1, 1988. Sea Robin has therefore requested waiver of the Regulations as may be required to permit such effective date.

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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 3, 1988. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22535 Filed 9-29-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA89-1-45-000]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

September 26, 1988.

Take notice that on September 16, 1988, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada MJ2 1R1, tendered for filing a revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff to be effective November 1, 1988:

Original Volume No. 1

Thirty-First Revised Sheet No. 4

Inter-City states that this revised tariff sheet is filed as Inter-City's annual PGA pursuant to Order Nos. 483 and 483-A. The revised tariff sheet reflects a rate of $1.46 per MMBtu in Inter-City's Eastern Zone and a rate of $2.79 per MMBtu in Inter-City's Western Zone. Also attached to the filing is a statement outlining the purchasing policies that gave rise to Inter-City's annual and quarterly projections and a statement responding to the underlying basis for the annual purchases reflected in the PGA filing.

Inter-City states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 208 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 17, 1988. 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; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22441 Filed 9-29-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP88-93-005 and RP88-40-005]

Questar Pipeline Co.; Compliance Filing

September 27, 1988.

Take notice that on September 9, 1988, Questar Pipeline Company submitted a compliance filing in response to the letter order issued on July 18, 1988, by the Director of Pipeline and Producer Regulation in consolidated Docket Nos. RP88-93-000 and RP88-40-000. In its filing Questar Pipeline submitted the following tariff sheets:

First Revised Volume No. 1

Seventeenth Revised Sheet No. 12
Second Substitute Original Sheet No. 12-A
Second Substitute Second Revised Sheet No. 15
Second Substitute Second Revised Sheet No. 15-A
Second Substitute First Revised Sheet No. 16
Second Substitute First Revised Sheet No. 17
Substitute Original Sheet No. 18

Second Substitute Original Sheet No. 39–A
Substitute First Revised Sheet No. 71
Substitute Original Sheet No. 80
Substitute Original Sheet No. 81

Original Volume No. 1–A

Seventh Revised Sheet No. 5

Original Volume No. 3

Tenth Revised Sheet No. 8
Second Substitute Original Sheet No. 10–B

It also requested that the following tariff sheets, filed on March 31, 1988, in these proceedings be withdrawn:

Original Volume No. 1–A

Original Sheet No. 5–A

Original Volume No. 3

Original Sheet No. 8–A

Questar Pipeline states on March 31, 1988, it filed a request for an increase in its rates for jurisdictional services pursuant to section 4(e) of the Natural Gas Act. On April 28, 1988, the Commission issued an order rejecting certain tariff sheets and accepting others subject to specified conditions. 43 FERC ¶ 61,172. On June 16, 1988, in response to the April 28 order, Questar Pipeline made a compliance filing by providing various schedules, statements, workpapers and tariff sheets.

Questar Pipeline states that tariff sheets filed on June 16 were rejected by the Director's July 18, 1988 letter order, and Questar Pipeline claims that the instant filing complies with that letter order and the Commission's April 28 order.

Questar Pipeline asserts that its filing has (a) incorporated appropriate reconciliation of information concerning its Clay Basin storage field operations, (b) included statements and schedules that incorporate the costs and revenues related to its gathering function, (c) included a derivation of the charge for standby sales service, and (d) eliminated the effects of "discounted volumes" under its NGPA section 311 program for purposes of deriving rates.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 4, 1988. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 88–22442 Filed 9–29–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP74–41–044 et al.]

Texas Eastern Transmission Corp., et al.; Filing of Pipeline Refund Reports And Refund Plans

September 27, 1988.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before October 18, 1988. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

Appendix

Filing Date	Company	Docket No.
6/27/88	Texas Eastern Transmission Corp.	RP74–41–044.
8/4/88	North Penn Gas Co.	RP85–193–007.
9/1/88	Transcontinental Gas Pipe Line Corp.	RP87–7–039.
9/2/88	Penn-York Energy Corp.	RP87–78–035.

[FR Doc. 88–22443 Filed 9–29–88; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

University Research Instrumentation Program

AGENCY: Department of Energy.

ACTION: Program solicitation announcement.

SUMMARY: The purpose of this notice is to announce the availability of the University Research Instrumentation (URI) program solicitation, and to inform potential applicants of the closing date and location for transmittal of applications for awards under this program. For more detailed background information about the URI solicitation, please refer to the following related documents: (1) DOE request for public comment on the URI program, June 7, 1983 (48 FR 26328–26331); (2) October 18, 1983, DOE changes to the program (48 FR 48277–48281); and (3) December 15, 1983, DOE program solicitation announcement (48 FR 55774–55775).

FOR FURTHER INFORMATION CONTACT: All communications or questions regarding this program solicitation should be directed to: Ms. Susan G. Hiser, Procurement and Contracts Division, Oak Ridge Operations Office, Department of Energy, P.O. Box 2001, Oak Ridge, TN 37831–8758, Telephone Number: (615) 576–0792.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the University Research Instrumentation program is to assist university and college scientists in strengthening their capabilities to conduct long-range research in specific energy research and development areas of direct interest to DOE through the acquisition of specialized research instrumentation. This program is consistent with, and part of, a government-wide effort to increase the availability of advanced research instrumentation in universities and colleges. For FY 1989, the Congressional appropriation for this program is $5.0 million. DOE invites all qualified universities to write for a copy of its University Research Instrumentation program solicitation, DOE–ER–0184/4, Notice of Program Announcement Number DE–PS01–88ER75461. Selection for award under this solicitation is subject to the availability of funds.

Principal Research Areas

While all areas of energy research are eligible, in FY 1989 the URI program's funds will be concerned primarily with capital equipment (costing $100,000 or more) needed for on-campus research in one of five specific energy areas (listed below in alphabetical order). In order to indicate the potential breadth of the research in each area, a number of examples of related research topics are given. Within each topic area no preference is given to any of the examples.

1. Biomedical and Environmental Research

a. Nuclear Medicine: (1) Research on the applications of radiation, radioisotopes and stable isotopes in the diagnosis and treatment of human diseases; (2) production of

radionuclides, new radiopharmaceuticals, automated chemical synthesis systems, studies of biodistribution and pharmacokinetics of radiolabeled compounds; (3) improvement of biomedical imaging techniques (SPECT, PET, and NMR spectroscopy, etc.) for physiologic and metabolic studies; (4) development of boronated compounds with higher selectivity for tumor tissue to ascertain clinical merit of boron neutron capture therapy.

b. Life Science Studies: (1) DNA damage and repair processes; (2) mapping and sequencing the human genome; (3) characterizing the structure and function of biological macromolecules; (4) health and environmental effects of radon exposure; (5) computer applications for analyzing biological data.

c. Environmental Processes and Effects: (1) Subsurface microbiology, contaminant transport, and factors affecting mobilization and immobilization of mixed waste regimes in systems, including new technologies to characterize microbes and the ground water systems within which they grow; (2) determination of the movement and fate of energy related materials introduced along the ocean margins; (3) development of integrated ecological studies focusing on water relations in arid and semi-arid lands and large scale ecosystem experiments that will contribute to global research activities.

2. Combustion, Conversion and Coal Science Chemistry

a. Combustion: (1) Combustion mechanics and dynamics, modeling of combustion processes; (2) pyrolysis; (3) fluidized bed combustion; (4) solid and gaseous combustion byproducts; (5) properties of reactive and short-lived chemical species; (6) characterization of fossil derived contaminants from combustors and gasifiers.

b. Conversion: (1) Kinetics and mechanisms of coal conversion, modeling of coal gasification and liquefaction reactions; (2) the use of catalysts to control/enhance reactions; and (3) biological techniques to achieve conversion of coal to liquids and gases.

c. Coal Science: (1) Structure, characteristics and reactivity of coal and coal-derived materials; (2) surface properties of coal and related matter.

3. Energy Engineering Research

a. Multiphase and Turbulent Flow: (1) Fluid-fluid systems; (2) properties of fluids; (3) concentration and size distribution of the disperse phase in a two-phase fluid; (4) shear, vorticity and higher order moments; (5) interface mechanics; (6) wind turbulence related to rotating wind turbine blades.

b. Heat Transfer: (1) Heat transfer in concentrated solar systems; (2) heat transfer in OTEC systems.

c. Tribology: Friction and wear research.

d. Process Control: Sensors, instrumentation and real time systems.

4. Materials Research and Electro-Optical Materials

Synthesis and processing of advanced materals: ceramics, composites, metallurgical and polymeric materials, semiconductors, superconductors, photovoltaics.

a. Thin films, doped and ion implanted compositions, electro responsive polymers, coatings, superconductors, photovoltaics, electrochromic and thermochromic optical films.

b. Characterization by *ex situ* and *in situ* methods to establish structures, compositions/stabilities, and defect analysis.

c. Magnetic and electronic properties, mechanical properties, transport, phase transformatins, superconductivity.

d. Dense ceramics and brittle materials.

5. Nuclear Physics

Understanding the interactions, properties, and structure of atomic nuclei using probes of light ions, heavy ions, electrons, and other nuclear particles for research in:

a. Nuclear collision dynamics via detection of nuclear reaction products;

b. Polarization effects in the collision of nuclear systems;

c. Nuclear structure and nuclear spectroscopy;

d. Giant resonances and other mechanisms of gamma-ray emission;

e. Probing fundamental symmetries and interactions;

f. Neutron scattering physics;

g. Radiative capture reactions; and

h. Properties of hot nuclear matter.

While the equipment requested will be equally suitable and may be used for research on other energy-related topics, the need for the instrument(s) must be justified (and the application will be reviewed) in terms of its value and ability to enhance the institution's capabilities in the principal designated energy-related research area specified on the cover sheet. The instrument's utility in advancing other areas of scientific or technical research is of peripheral interest during the application's review procedure.

Eligibility and Limitations

Participation in the URI program is limited to U.S. universities and colleges that currently have active, ongoing DOE-funded research support (including subcontracts) totalling at least $150,000 in value in the specific area for which the equipment is requested during the past two fiscal years (October 1, 1986, to September 30, 1988).

DOE is establishing this limitation to ensure that the instrumentation acquired with these grants will significantly expand the research capability of institutions which have already demonstrated the capability to perform long-range energy research. The Office of Energy Research believes that restricting eligibility to institutions which have performed $150,000 of DOE supported research over a two-year period will limit eligibility in this grant program to those institutions which, because of their existing commitment to energy research, are best able to incorporate advanced instrumentation into their research programs. Special consideration will be given to Historically Black Colleges and Universities (HBCU's) which meet the institutional eligibility criteria, and have significant research capabilities in the selected research area.

DOE will consider only requests for larger instruments, costing $100,000 or more, which are required to advance research in the designated area. Smaller research instruments (less than $100,000 each) will not be eligible for consideration in this program. General purpose computing equipment is also not eligible under this program. However, laboratory computers and associated peripherals dedicated for use directly with the instrument(s) requested (or for use with existing research instrument(s) in the selected area may be considered. Computing equipment for theoretical research, while eligible, will be given secondary consideration. Instrumentation for experimental research purposes will be given primary consideration.

Application Forms

Program solicitations are expected to be ready for mailing by October 1, 1988. Applications must be prepared and submitted in accordance with the instructions and forms included in the program solicitation. Copies may be obtained by writing to: Division of University and Industry Programs, Office of Field Operations Management, Office of Energy Research, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone Number: (202) 586–8910.

Closing Date for Transmittal of Applications

To be eligible, applications must be received by the Oak Ridge Operations Office by 4:30 p.m., December 2, 1988.

Authority for the University Research Instrumentation Program is contained in section 31 (a) and (b) of the Atomic Energy Act of 1954 (42 U.S.C. 2051) and section 209 of the Department of Energy Organization Act (42 U.S.C. 7139).

(Catalog of Federal Domestic Assistance No. 81.077, University Research Instrumentation Program)

Antionette Grayson Joseph,

Director, Office of Field Operations Management, Office of Energy Research.

[FR Doc. 88-22572 Filed 9-29-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3455-3]

Chesapeake Bay Program; 1987 Chesapeake Bay Agreement; Proposals for Review

The 1987 Chesapeake Bay Agreement signed by the Governors of Maryland, Virginia and Pennsylvania, the Mayor of the District of Columbia, the Chairman of the Chesapeake Bay Commission and the Administrator of the US Environmental Protection Agency for the Federal Government, requires that commitments concerning wetlands and migratory fish passage be met by December 1988. The draft reports, *Chesapeake Bay Wetlands Policy* and *Removing Impediments to Migratory Fishes in the Chesapeake Bay Watershed*, will be available in libraries for public review for a 30-day review period beginning October 1. The Living Resources Subcommittee's October 18, 10:00 a.m. meeting at the Chesapeake Bay Liaison Office is open to the public. Citizens attending the meeting are encouraged to bring written comments, which may also be submitted by mail until October 31 to the EPA Chesapeake Bay Liaison Office, 410 Severn Avenue, Annapolis, Maryland 21403. For more information, including locations of libraries which will have the documents, contact The Alliance for Chesapeake Bay: (301) 377-6270.

Charles S. Spooner,

Director, Chesapeake Bay Liaison Office.

[FR Doc. 88-22486 Filed 9-29-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3456-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 12, 1988 through September 16, 1988 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5074.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 22, 1988 (53 FR 13318).

Draft EISs

ERP No. D-BLM-K61197-NV, Rating EC2, Nevada Contiguous Lands Wilderness Recommendations, Designation or Nondesignation, Clark, Lincoln, White Pine and Humboldt Counties, NV.

Summary: EPA expressed environmental concerns because this document did not specify how wilderness study areas were recommended for wilderness versus nonwilderness status, and did not show how state and Federal standards to protect air and water quality would be met.

ERP No. DS-FHW-J40030-UT, Rating EC2, US 189 Construction Improvements, Utah Valley to Heber Valley Project, US 189 Widening and Realignment, UT-52 to US 40, Funding and 404 Permit, Utah and Wasatch Counties, UT.

Summary: EPA has concerns with the adequacy of information related to potential water quality and wetland impacts. The analysis presented is incomplete in that the model does not quantify potential increases in heavy metals, sediments, and nutrients. To avoid possible design and construction delays and to develop the best practicable project mitigation measures, EPA recommends continued coordination with regulatory and resource agencies regarding impact avoidance and acceptable mitigation for impacts to aquatic resources.

ERP No. D-USA-K85059-HI, Rating EC2, Helemano Military Reservation, Family Housing Construction Project, Implementation, City and County of Honolulu, Island of Oahu, HI.

Summary: EPA expressed environmental concerns on the proposed project's compliance with the requirements of the Comprehensive Environmental Response, Compensation and Liability Act regarding the investigation and cleanup of hazardous substances; and the proposed project's wastewater treatment needs in light of Clean Water Act compliance problems at the Schofield Army Barracks Wastewater Treatment Plant.

Final EISs

ERP No. FS-AFS-L61141-00, Pacific Northwestern Regional Guide, Northern Spotted Owl Habitat Management Standards and Guidelines, Updated and Additional Research, OR, WA and CA.

Summary: EPA continues to have environmental concerns with this document's preferred alternative. EPA feels this document has not addressed the secondary effects on forest resources (water quality and fish habitat) from increased harvest and has also failed to clarify whether using Alternative A as the baseline for economics analyses represents the socieconomic effects of any of the alternatives.

ERP No. F-FHW-E40699-NC, US 311 Bypass Improvement, US 311 North of High Point to US 311 South of Archdale, High Point East Belt, Funding and 404 Permit, Guilford and Randolph Counties, NC.

Summary: EPA feels this document generally addresses concerns on protection surface water from runoff contamination and replacement of lost wetland. EPA believes that these measures should be further refined during design to ensure successful implementation. Borrow areas should be designed to create shallow water areas which offset project losses. In addition, further consideration should be given to reduce residential noise impacts.

ERP No. F-NOA-B90009-NH, New Hampshire Coastal Program, Ocean, Harbor, and Great Bay Areas, Approval, Funding.

Summary; EPA believes the New Hampshire Coastal Program will not cause significant adverse impacts on the environment.

ERP No. F-NPS-L61169-AK, Bering Land Bridge National Preserve, Wilderness Recommendations, Designation or Nondesignation, AK.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory. No formal comments were sent to the agency.

ERP No. F-NPS-L61174-AK, Wrangell-St. Elias National Park and Preserve Wilderness Recommendations, Designation or Nondesignation, AK.

Summary: Review of the final EIS has been completed and the project found to be satisfactory. No formal comments were sent to the agency.

ERP No. F-USA-L11009-ID, Orchard Training Area Facilites Development Project, Construction and Improvements, Implementation, Ada County, ID.

Summary: EPA has no objections to the project as described in the final EIS.

Dated: September 27, 1988.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 88-22588 Filed 9-29-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3456-5]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5076 or (202) 382-5075. Availability of Environmental Impact Statements Filed September 19, 1988 Through September 23, 1988 Pursuant to 40 CFR 1506.9.

EIS No. 880310, Final, BLM, UT, Pony Express Resource Management Plan, Implementation, Salt Lake District, Utah, Tooele and Salt Lake Counties, UT, Due: October 31, 1988, Contact: Dennis Oaks (801) 524-6767.

EIS No. 880311, Draft, IBR, WY, Westside Irrigation Project, Water Resource Development and Land Transfer of Public Land, Implementation, Big Horn and Washakie Counties, WY, Due: December 20, 1988, Contact: Derwood Mercer (406) 657-6139.

EIS No. 880312, Draft, AFS, CA, Mono Basin National Forest Scenic Area, Comprehensive Management Plan, Implementation, Inyo National Forest, Mono County, CA, Due: December 20, 1988, Contact: John Ruopp (619) 873-5814.

EIS No. 880313, DSuppl, AFS, OR, Deschutes National Forest, Land and Resource Management Plan, Additional Alternative and Specific Management Requirements Analysis, Implementation, Klamath, Deschutes, Jefferson and Lake Counties, OR, Due: January 6, 1989, Contact: Norm Arseneault (503) 388-2715.

EIS No. 880314, Draft, EPA, TX, Corpus Christi Ocean Dredged Material Disposal Site Designation for Material Dredged from the Corpus Christi Entrance Channel, TX, Due: November 14, 1988, Contact: Norm Thomas (214) 655-2260.

EIS No. 880315, Final, BLM, WY, Cody Resource Area Land Management Plan, Implementation, Big Horn and Park Counties, WY, Due: October 31, 1988, Contact: Thomas E. Enright (307) 587-2216.

EIS No. 880316, Draft, FHW, FL, Roosevelt Bridge Replacement carrying US 1/FL-5 across the St. Lucie River, South of FL-76 to North of Wright Boulevard, Funding, Coast Guard Permit and COE Section 404 Permit, City of Stuart, Martin County, FL, Due: November 14, 1988, Contact: Harold Kerr (305) 524-8621.

EIS No. 880317, Final, SCS, IA, Soap Creek Watershed Protection and Flood Reduction Plan, Funding and Implementation, Des Moines River, Appanoose, Davis, Monroe and Wapello Counties, IA, Due: October 31, 1988, Contact: J. Michael Nethery (515) 284-4260.

EIS No. 880318, Final, NPS, AK, Aniakchak National Monument and Preserve, Wilderness Recommendations, Designation or Nondesignation, AK, Due: October 31, 1988, Contact: Linda Nebel (907) 257-2654.

EIS No. 880319, Final, NPS, AK, Noatak National Preserve, Wilderness Recommendation, Designation or Nondesignation, AK, Due: October 31, 1988, Contact: Linda Nebel (907) 257-2654.

EIS No. 880320, Final, NPS, AK, Kobuk Valley National Park, Wilderness Recommendations, Designation or Nondesignation, AK, Due: October 31, 1988, Contact: Linda Nebel (907) 257-2654.

EIS No. 880321, DSuppl, AFS, WA, Olympic National Forest, Land and Resource Management Plan, Additional Information Concerning Management Requirements in the Current Direction Alternative and all Forest Plan Alternatives, Implementation, Clallam, Grays Harbor, Jefferson and Madison Counties, WA, Due: December 29, 1988, Contact: Ted C. Stubblefield (206) 753-9519.

EIS No. 880322, FSuppl, SFW, AK, Alaska Peninsula National Wildlife Refuge Management Plan, Wilderness Recommendations, Designation or Nondesignation, AK, Due: October 31, 1988, Contact: William Knauer (907) 786-3399.

EIS No. 880323, FSuppl, SFW, AK, Becharof National Wildlife Refuge Management Plan, Wilderness Recommendations, Designation or Nondesignation, AK, Due: October 31, 1988, Contact: William Knauer, (907) 786-3399.

Dated: September 27, 1988.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 88-22589 Filed 9-29-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3456-2]

Bisbee-Naco Aquifer in the Cochise County AZ; Sole Source Aquifer Determination

AGENCY: Environmental Protection Agency.

ACTION: Final determination.

SUMMARY: Pursuant to section 1424(e) of the Safe Drinking Water Act, the Regional Administrator in Region IX of the U.S. Environmental Protection Agency (EPA) has determined that the Bisbee-Naco Aquifer is the sole or principal source of drinking water for the population of Bisbee, Naco area; and, this aquifer, if contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects constructed anywhere in the Bisbee-Naco area within the delineated boundary will be subject to EPA review to ensure that these projects are designed and constructed so that they do not create a significant hazard to public health.

ADDRESSES: The data on which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region IX, Water Management Division, Fifth Floor, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Hannibal Joma, Office of Groundwater Protection, Water Management Division, Environmental Protection Agency, Region 9, at (415) 974-8589.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300-3(e), Pub. L. 93-523) the Regional Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Southern portion of the delineated area located in Sonora, Mexico is part of the associated recharge zone. Pursuant to section 1424(e), Federal financially assisted projects, constructed anywhere in the area mentioned above, will be subject to EPA review.

I. Background

Section 1424(e) of the Safe Drinking Water Act states:

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any

such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of the law, be entered into plan or design the project to assure that it will not so contaminate the aquifer.

In October 1983, Charles Walker of Peoria, Arizona petitioned the EPA to designate groundwater resources of the Bisbee-Naco area as a sole source of drinking water. In response to this petition, EPA published a notice in the **Federal Register** on May 10, 1984 announcing receipt of the petition and requesting public comment. In November 1983, EPA determined that a hydrogeologic report and water resources investigation was necessary in order to make a determination on the petition. In January 1984, the EPA contracted with the U.S. Geologic Survey (USGS) to prepare a report summarizing and interpreting existing data. The USGS report was received by EPA in June 1987. EPA prepared a draft technical document summarizing available information and proposing a sole or principal source aquifer designation. A public comment period, including a hearing on the proposed designation, was public noticed in the Bisbee Daily Review and Sierra Vista Herald on May 9, 1988. The public hearing was conducted on June 9, 1988, and public was allowed to submit comments until June 16, 1988.

II. Basis for Determination

Among the factors to be considered by the Regional Administrator in connection with the designation of an area under section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water, and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to this Agency, the Regional Administrator has made the following findings, which are the basis for the determination noted above:

1. The Bisbee-Naco Aquifer currently serves as the "sole source" of drinking water for approximately 8,765 permanent residents within the Bisbee-Naco area.

2. There is no economically feasible alternative drinking water source, or combination of sources near the designated area.

3. Although the water quality over most of the study area is satisfactory for domestic use, widespread potential exists for degradation. The main threats to the quality of the aquifer include leachates from minng tailings ponds, recharge from irrigation and pesticide application (in Sonora, Mexico); recharge from unlined waste water treatement ponds; poorly situated cesspools and septic tanks; and, urban run-off.

III. Description of the Bisbee-Naco Aquifer

Ground water occurs in the alluvial basin fill, the underlying consolidated sedimentary rocks and the basement rocks. The principal aquifer is the alluvial basin, which provides 95% of all water for domestic purposes. The alluvial basin yields from 400 to 1400 Gal/min. The deeper consolidated sedimentary rocks, generally yield considerably less than the basin fill (<2 to 180 Gal/min.). The basement rocks contain little space for the storage of water except where they are highly fractured or faulted.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition from Charles Walker of Peoria, Arizona, the USGS report, "Ground Water Resources of the Bisbee-Naco Area, Cochise County, Arizona," by G.R. Littin, and written and verbal comments submitted by the public. This data is available to the public, and may be inspected during normal business hours at the Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

V. Project Review

EPA Region IX will work with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures will be developed in which EPA will be notified of proposed commitments by federal agencies for projects which could contaminate the aquifer. EPA will evaluate such project and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, there can be no commitment of Federal financial assistance. However, a commitment for Federal assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not contaminate the aquifer.

Although the project review process cannot be delegated, the U.S. EPA will rely upon , to the maximum extent possible, any existing or future state and local control mechanisms in protecting the ground water quality of the aquifer. Included in the review of any Federal financially assisted project will be the coordination with the state and local agencies. Their comments will be given full consideration and the federal review process will attempt to complement and support state and local ground water mechanisms.

VI. Summary and Discussion of Public Comments

Overall, commentaries at the public hearing favored the designation. EPA received several comments regarding the delineated boundary and the rationale for EPA's decision on expanding the boundary beyond what was delineated in the petition and the USGS report. EPA responded by referring to the technical document which defines the recharge zone through which water discharges into the aquifer and that they should be included within the delineated boundary.

EPA received several comments concerning the accuracy of the population data. It was pointed out that the population may be less than originally reported. EPA revised the technical documents reflecting these population corrections.

EPA received one comment concerning the coverage of the agricultural land in Bisbee-Naco area within the United States border. EPA solicited additional information regarding this matter and it was concluded that almost all the agricultural land is located in the Mexican portion of the delineated area. However, the fact that pesticide application is a potential source of contamination of the aquifer, either in the American or Mexican portion of the delineated boundary, is reflected in the technical document.

EPA received comments questioning the reliability and applicability of the pesticide *Drastic* numerical ranking system for classifying the aquifer as a Class I ground water. EPA evaluated the pesticide *Drastic* application further and concluded that more accurate data is required to apply the model effectively for classification of the aquifer. Therefore, EPA will not classify the aquifer at this time, however, upon the availability of more accurate hydrogeologic, water budget, and soil data an area wide *Drastic* modeling and

mapping could be performed to re-evaluate the classification of the aquifer.

EPA received one comment concerning the expansion of the designated sole source aquifer boundaries to include the San Pedro River Valley aquifer as part of the designation. EPA responded by recognizing the fact that the San Pedro aquifer is downgradient from and hydraulically connected to the Bisbee-Naco aquifer. However, EPA's position is that the San Pedro River Valley aquifer, being downgradient, does not discharge into the Bisbee-Naco aquifer, therefore, it does not provide drinking water for the petitioned area. EPA has not included this basin in the designation.

VII. Economic and Regulatory Impact

Pursuant to provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this certification, the term "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to the Bisbee-Naco area. The only affected entities will be those businesses, organizations, or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a ground water impact assessment required pursuant to other federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, et seq. Integration of those related review procedures with sole source aquifer review will allow EPA and other federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects the Bisbee-Naco area. It provides additional reviews of groundwater protection measures, whenever possible, for only those projects which request Federal financial assistance. This regulation was submitted to OMB for review under EO 12291.

Dated: September 21, 1988.

Daniel M. McGovern,

Regional Administrator.

[FR Doc. 88-22485 Filed 9-29-88; 8:45 am]

BILLING CODE 6560-50-M

[AAA-FRL-3456-4]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

On February 18, 1986, President Reagan signed Executive Order 12549, under which OMB was directed to establish a uniform governmentwide program for nonprocurement (including assistance) suspension and debarment. On May 26, 1988, OMB and twenty-seven agencies, including EPA, published a final common rule to implement the Order. The rule becomes effective October 1, 1988. Because the new rule provides for a governmentwide list, beginning *October 1, 1988*, EPA's Master List of Debarred, Suspended and Voluntarily Excluded Persons will cease to exist. All names remaining on the Master List at that time and all new listings will be consolidated into a General Services Administration (GSA) publication entitled "*Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.*"

The new list will be compiled and distributed by GSA's Office of Acquisition Policy. Initially it will be available in monthly hardcover format only. Weekly supplements to the new list will be available on GSA's Information Resources Services Center electronic bulletin board.

To order your subscription to the new list, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 or call (202) 783-3238. The current subscription price is $40.00 annually.

DATE: This short lsit is current as of September 23, 1988.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, Compliance Branch, Grants Administration Division, Environmental Protection Agency, at (202) 475-8025.

Dated: September 21, 1988.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division (PM-216).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Alle-Catt Asphalt, Inc. (Allegany, NY)	86-0072-02	D	07-29-87	07-28-90	§ 32.200(a)(3)
AES Engineers, Inc. (Willow Springs, IL)	86-0001-00	S	12-15-87	[2]	§ 32.300(b)

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Altman, Larry L. (Charleston, SC)	85-0063-03	S	07-29-85	([2])	§ 32.300(b).
American Recovery Co., Inc. (Glen Burnie, MD)	86-0011-00	D	08-20-86	08-19-89	§ 32.200(f)(i).
Applied Science Distributors (Pensacola, FL)	87-0013-00	D	02-05-87	04-02-90	§ 32.200(a)(i).
Asphalt Service, Inc. (Jamestown, NY)	87-0045-00	D	06-29-88	06-28-91	§ 32.200(a).
Averill, Ernest, Jr. (Fort Myers, FL)	83-0066-06	D	12-02-83	10-29-88	§ 32.200(b).
Azzil Trucking Co., Inc. (Roslyn, NY)	85-0008-02	D	09-11-86	09-10-89	§ 32.200(a)(b).
Barnum, James Charles (Utica, MI)	86-0010-01	D	12-10-85	12-09-88	§ 32.200(a).
Batzer Construction Co., Inc. (St. Cloud, MN)	85-0052-00	D	03-07-86	08-05-90	§ 32.200(a).
Batzer, Bruce (St. Cloud, MN)	85-0052-01	D	03-07-86	08-05-90	§ 32.200(a).
Batzer, Robert (St. Cloud, MN)	85-0052-02	D	03-87-86	08-05-90	§ 32.200(a).
Beals, Gordon (Salt Lake City, UT)	88-0024-03	VE	06-05-88	06-04-89	§ 32.200.
Beckham, Charles (Detroit, MI)	84-0030-02	D	02-24-86	07-30-89	§ 32.200(a)(b).
BECO, Inc. (High Point, NC)	85-0017-01	VE	12-10-85	12-09-88	§ 32.200(a)(3).
Bell, Bobby (Sulphur, LA)	85-0071-01	D	03-06-86	03-05-89	§ 32.200(a)(b).
Bell, Edwin (Sulphur, LA)	85-0071-02	D	03-06-86	03-05-89	§ 32.200(a)(b).
Bezmalinovic, Kreso (Woodside, NY)	88-0028-00	S	07-01-88	([2])	§ 32.300.
Bezmalinovic, Nerina B. (Woodside, NY)	88-0028-01	S	07-01-88	([2])	§ 32.300.
Big Apple Wrecking Corp. (Bronx, NY)	88-0053-00	S	08-10-88	([2])	§ 32.300.
Bortugno, Frank (Bronx, NY)	86-0082-30	D	11-09-87	11-08-90	§ 32.200(a).
Bortugno, Ralph (Bronx, NY)	86-0082-29	D	11-13-87	11-12-90	§ 32.200(a).
Bowers, Darralyn (Detroit, MI)	84-0030-01	D	02-24-86	05-11-89	§ 32.200(a)(b).
Bridges, William D., Jr. (Wilmington, NC)	85-0069-01	D	04-09-86	04-08-89	§ 32.200(a).
Bryan, Charles B. (Tempe, AZ)	87-0010-03	D	07-28-87	07-27-90	§ 32.200 (a)(c)(i).
Cannady, Nathaniel Ellis (Asheville, NC)	86-0047-01	D	03-18-86	07-15-89	§ 32.200 (a)(i).
Careccia, Vincent (Farmingdale, NY)	86-0082-26	D	11-09-87	11-08-90	§ 32.200 (a).
Carl I. Schaeffer Electric Co. (St. Louis, MO)	88-0009-00	D	05-14-88	05-13-91	§ 32.200 (a).
Carson, Charles (Grosse Point Woods, MI)	85-0066-00	D	03-18-86	04-25-89	§ 32.200 (b).
Carson, E. Eugene (Statesville, NC)	85-0004-01	D	01-06-86	01-05-89	§ 32.200 (a).
Chatterjee, Samar (Willow Springs, IL)	83-0065-00	S	12-15-87	([2])	§ 32.300 (b).
City Chemicals Company, Inc. (Orlando, FL)	86-0038-02	D	10-02-86	11-23-89	§ 32.200 (a)(1).
City Environmental Services, Inc. (Orlando, FL)	86-0038-03	D	10-02-86	11-23-89	§ 32.200 (a)(1).
City Fuel Oil Company (Orlando, FL)	86-0038-05	D	10-02-86	11-23-89	§ 32.200 (a)(1).
City Industries, Inc. (Orlando, FL)	86-0038-01	D	10-02-86	11-23-89	§ 32.200 (a)(1).
Commonwealth Companies Incorporated (Lincoln, NE)	86-0100-01	S	11-12-86	([2])	§ 32.200 (a)(1).
Commonwealth Electric Company, Inc. (Lincoln, NE)	86-0100-00	S	09-09-86	([2])	§ 32.300 (b).
Crolich, Peter V. (Mobile, AL)	87-0017-02	D	06-18-87	06-17-90	§ 32.200 (a)(i).
Crossgrove, Richard (Pensacola, FL)	87-0013-01	D	02-05-87	04-02-90	§ 32.200 (a)(i).
Cryer, John P (Baton Rouge, LA)	85-0062-03	S	07-29-85	([2])	§ 32.300 (b).
Cusenza, Sam (Ypsilanti, MI)	85-0024-02	D	02-24-86	04-02-89	§ 32.200 (a)(b).
DeLuca, Nick (Staten Island, NY)	86-0082-25	D	11-09-87	11-08-90	§ 32.200 (a).
DiMiceli, Thomas (Brooklyn, NY)	87-0052-00	D	05-25-88	05-24-91	§ 32.200 (a).
Domanski, Gary Henry (Utica, MI)	86-0010-02	D	12-10-85	12-09-88	§ 32.200 (a).
Driscoll, John William (Dundale, MD)	86-0011-02	D	10-15-86	10-14-89	§ 32.200 (f)(i).
Duisen, Darrell A. (San Diego, CA)	86-0105-01	D	10-16-87	10-15-90	§ 32.200 (a)(i).
Dykes, Lamar D. (Nederland, TX)	85-0071-03	D	03-06-86	03-05-89	§ 32.200 (a)(b).
Enmanco (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200 (a).
Environmental Management Corporation (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200 (a).
Environmental Technology of America, Inc. (Wilbraham, MA)	86-0071-00	D	02-05-87	02-04-90	§ 32.200(a).
Ewalt, G.W. Walther (Leesburg, VA)	86-0116-02	D	07-13-88	07-12-91	§ 32.200(a).
Federal Chandros, Inc. (Brooklyn, NY)	87-0040-00	S	07-02-87	([2])	§ 32.300(b).
Fields, Leroy (Pensacola, FL)	87-0013-02	D	02-05-87	04-02-90	§ 32.200(a).
Firth, John Norman (Mobile, AL)	87-0017-01	D	08-11-88	08-10-91	§ 32.200(a)(1).
Fox, William H. (Salt Lake City, UT)	88-0024-01	VE	06-05-88	06-04-89	§ 32.200.
Foley, Bancroft T. (Washington, DC)	86-0004-03	D	03-07-86	03-06-89	§ 32.200(a).
Fusaro, Robert (Philadelphia, PA)	86-0022-01	D	06-23-88	06-22-91	§ 32.200(a)(1).
Futia, Joseph N., Jr. (Albany, NY)	88-0018-01	D	03-11-88	06-05-89	§ 32.200(b).
Futia, Joseph N., Sr. (Albany, NY)	88-0018-02	VE	06-07-88	06-05-89	§ 32.200.
G.B. Industries (Atlanta, GA)	87-0082-05	D	11-02-87	([2])	§ 32.200.
Gametronics Corp. (Atlanta, GA)	87-0082-06	D	11-02-87	([2])	§ 32.200.
Gates and Fox, Ltd. (Tempe, AZ)	87-0010-00	VE	07-28-87	12-01-88	§ 32.200(a), (c)(i).
Gelb, Michael (Brooklyn, NY)	87-0040-01	S	07-02-87	([2])	§ 32.300(b).
Gelb, Thomas (Brooklyn, NY)	87-0040-02	S	07-02-87	([2])	§ 32.300(b).
Gesuele, Salvatore (Brooklyn, NY)	86-0082-28	D	08-25-88	08-24-91	§ 32.200(a).
Geuther, Herbert G. (Philadelphia, PA)	86-0004-04	D	03-07-86	03-06-89	§ 32.200(a).
Goodloe, George M. (Jacksonville, FL)	86-0099-01	D	08-05-87	02-04-89	§ 32.200(a), (3)(i).
Grant, Alan Blane (Atlanta, GA)	87-0082-05	D	11-02-87	([2])	§ 32.200.
Graves, George William (Wilmington, NC)	85-0069-02	D	03-05-86	03-04-89	§ 32.200(a).
Gredig Industries Inc. (Atlanta, GA)	87-0082-04	D	11-02-87	([2])	§ 32.200.
Greenberg, Harold (Bronx, NY)	88-0053-01	S	08-10-88	([2])	§ 32.300.
Greer, Arthur (Maitland, FL)	86-0038-00	D	10-02-86	11-23-89	§ 32.200.
Griggs, Joseph, III (Roanoke, VA)	86-0111-00	VE	08-02-88	08-01-89	§ 32.200.
Gross, William R. (Big Springs, TX)	86-0002-01	D	10-06-86	10-05-89	§ 32.200(a).
Hansen, Leonard A. (St. Peter, MN)	85-0019-02	D	09-26-85	09-25-88	§ 32.200(a)(3).
Hendry Corporation (Tampa, FL)	88-0023-00	D	08-08-88	08-07-91	§ 32.200(a)(3).
Herbst Electric Co. (Cleveland, OH)	87-0081-00	D	02-24-88	02-23-91	§ 32.200(a).
Hi-Way Surfacing, Inc. (Marshall, MN)	85-0053-00	D	12-17-85	12-16-88	§ 32.200(a)(3).
Hochreiter, Herbert (Roslyn, NY)	85-0008-01	D	09-11-86	09-01-89	§ 32.200(a)(b).
Hodges Electric Company (Wilmington, NC)	85-0070-00	D	04-04-86	04-03-89	§ 32.200(a).
Howard P. Foley, Company (Washington, DC)	86-0004-00	D	03-07-86	03-06-89	§ 32.200(a).
Hugo Schulz, Inc. (Lakefield, MN)	85-0047-00	D	05-01-86	04-30-89	§ 32.200(a).

EPA Master List of Debarred, Suspended and Voluntarily Excluded Persons—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Hummel Engineering Corporation (Philadelphia, PA)	86-0009-02	D	03-31-88	03-30-91	§ 32.200(a).
Ingber, Brian (S. Fallsburg, NY)	86-0096-01	D	04-24-87	02-23-90	§ 32.200(a).
J. A. LaPorte, Inc. (Arlington, VA)	86-0037-00	D	08-29-86	08-28-89	§ 32.200(a)(3).
James Electric Co., Inc. (Huntington, WV)	87-0046-00	D	12-12-87	12-11-90	§ 32.,200(a)(3).
Jerlow, John A. (Lakefield, MN)	85-0047-02	D	05-01-86	04-30-89	§ 32.200(a).
Jerpbak, Daniel R. (Owatonna, MN)	86-0024-01	D	09-25-86	09-24-89	§ 32.200(i).
Jethani, Nandlal (Williston Park, NY)	86-0082-27	D	11-09-87	11-08-90	§ 32.200(a).
J. N. Futia Co., Inc. (Albany, NY)	88-0018-00	D	03-11-88	06-07-91	§ 32.200.
Johnson, C. Theodore (Indianapolis, IN)	84-0023-04	D	03-04-86	03-03-89	§ 32.200(a)(f).
Jordan, William F. (Tempe, AZ)	87-0010-02	D	07-28-87	07-27-90	§ 32.200(a)(c)(i).
Knecht, Joseph A. (Woodbury, NJ)	86-0009-08	D	07-25-88	01-24-89	§ 32.200(a)(3).
Komatz Construction Co., Inc. (St. Peter, MN)	85-0019-00	D	09-26-85	09-25-88	§ 32.200(a)(3).
Komatz, Thomas P. (St. Peter, MN)	85-0019-01	D	09-26-85	09-25-88	§ 32.200(a)(3).
Kruse, Lloyd C. (Lakefield, MN)	85-0047-01	D	05-01-86	04-30-89	§ 32.200(a).
Kruse, William B. (Tempe, AZ)	87-0010-01	VE	07-28-87	10-31-88	§ 32.200.
L&J Waste Service, Inc. (Hialeah, FL)	85-0079-02	D	12-19-86	12-18-89	§ 32.200(a)(i).
Law, David P. (Greenwell Springs, LA)	85-0064-00	S	07-29-85	[2]	§ 32.300(b).
Law, Theresa McBeth (Greenwell Springs, LA)	85-0064-01	S	07-29-85	[2]	§ 32.300(b).
Lench, Frank P. (Lafayette, CA)	86-0004-01	D	03-07-86	03-06-89	§ 32.200(a).
Linn, Harry, Jr. (Pine Ridge, PA)	86-0009-01	VE	09-14-88	03-13-89	§ 32.200.
Lizza Industries, Inc. (Roslyn, NY)	85-0008-00	D	09-11-86	09-10-89	§ 32.200(a)(b).
Lofgren, Sven (Lincoln, NE)	87-0014-01	VE	11-12-86	11-12-88	§ 32.200(i).
Louis P. Canuso, Inc. (Jackson, MS)	87-0030-00	D	07-01-88	03-08-90	§ 32.200(a).
Martien Electric Company (Cleveland, OH)	88-0013-00	D	05-09-88	05-08-91	§ 32.200(a).
Martien, Harry L., Jr. (Cleveland, OH)	88-0013-01	D	05-10-88	05-09-91	§ 32.200(a).
Mastriano, Julius (New York, NY)	87-0056-00	D	05-20-88	05-19-91	§ 32.200(a).
McDowell Contractors, Inc. (Nashville, TN)	84-0014-00	VE	12-23-85	12-22-88	§ 32.200(a).
McMahon, D. Paul, Jr. (Woodbury, NJ)	86-0009-09	D	07-25-88	01-24-89	§ 32.200(a)(3).
Meyer-Rohlin, Inc. (Buffalo, MN)	86-0081-00	VE	04-01-87	10-01-88	§ 32.200(a)(1).
Meyer, Thore P. (Buffalo, MN)	86-0081-01	VE	04-01-87	10-01-88	§ 32.200(a)(1).
Miller, Alan S. (Bala Cynwyd, PA)	87-0026-02	D	08-12-88	08-11-91	§ 32.200(a).
Millspaugh, Michael, J. (Mobile, AL)	86-0107-02	D	06-18-87	06-17-90	§ 32.200(a).
Modern Electric Co. (Statesville, NC)	85-0004-00	D	01-06-86	01-05-89	§ 32.200(a).
Moore, Gray E. (Jr.) (Greenwood, SC)	86-0108-00	D	08-19-86	08-18-89	§ 32.200.
Moorse, Lawrence (Marshall, MN)	85-0053-01	D	12-17-85	12-16-88	§ 32.200(a)(3).
Morales, Rene (Bronx, NY)	86-0082-32	D	11-09-87	11-08-90	§ 32.200(a).
Newt Solomon, Inc. (Nashville, TN)	85-0058-00	D	10-10-85	10-09-88	§ 32.200(e)(i).
Nucero Corporation (Philadelphia, PA)	86-0057-00	D	08-12-88	08-11-89	§ 32.200(a).
Nucero, Leonard A., Sr. (Philadelphia, PA)	86-0057-01	D	08-12-88	08-11-89	§ 32.200(a).
O'Mara, Lawrence (Chicksville, NY)	86-0082-24	D	11-09-87	11-08-90	§ 32.200(a).
Owens, Jerry B. (Southfield, MI)	85-0065-00	D	02-24-86	03-26-89	§ 32.200(b).
P.C. & J. Contracting Co., Inc. (Woodside, NY)	86-0051-00	S	07-01-88	[2]	§ 32.300.
Parkhill-Goodloe Co., Inc. (Jacksonville, FL)	86-0099-00	VE	04-16-87	10-15-88	§ 32.200(a).
Payne, James (Enid OK)	88-0005-01	D	12-02-87	10-14-88	§ 32.200.
Peterson, L. Durand (Jamestown, NY)	87-0045-01	D	06-29-88	06-28-91	§ 32.200(a).
Petro-Chem Services, Inc. (Mobile, AL)	87-0017-00	D	08-11-88	08-10-91	§ 32.200(a)(1).
Petrone, Daniel M. (Bala Cynwyd, PA)	87-0026-01	D	06-27-88	06-26-91	§ 32.200(a)(1).
Philadelphia Northwest Constructors and Builders, Inc. (Philadelphia, PA)	86-0022-00	D	06-23-88	06-22-91	§ 32.200(a)(1).
Piccinonna, Julio (Hollywood, FL)	85-0079-01	D	05-11-87	05-10-90	§ 32.200(a).
Pinney, J.A. Bruce (Bala Cynwyd, PA)	84-0023-06	D	01-15-86	03-03-89	§ 32.200(a)(f).
Pipeline Renovation Service, Inc. (Tacoma, WA)	86-0078-00	D	07-02-86	08-07-89	§ 32.200(c)(i).
Pirnos, Wayne, (Woodbridge, NY)	86-0096-03	D	04-24-87	04-23-90	§ 32.200(a).
Polymer Chemicals, Inc. (Atlanta, GA)	87-0082-00	D	11-02-87	[2]	§ 32.200.
Polymer Group, Ltd. (Atlanta, GA)	87-0082-03	D	11-02-87	[2]	§ 32.200.
Polymer Industries, Inc. (Atlanta, GA)	87-0082-02	D	11-02-87	[2]	§ 32.200.
Profita, Gerald D. (Montgomery, AL)	87-0025-01	D	06-23-88	06-22-91	§ 32.200(a)(1).
Ray, Charles N. (Scotch Plains, NJ)	86-0009-06	D	08-08-88	08-07-91	§ 32.200(a)(3).
Resource Conservation & Recovery of America, Inc. (Orlando, FL)	86-0038-04	D	10-02-86	11-23-89	§ 32.200(a)(i).
Riccardelli, Eugene (Brooklyn, NY)	87-0049-01	D	05-25-88	05-24-91	§ 32.200(a).
Riggs Distler & Company, Inc. (Baltimore, MD)	86-0009-03	VE	08-16-88	02-15-89	§ 32.200(a)(3).
Rio Grande Construction Company (Bunkie, LA)	85-0063-00	D	07-29-85	10-13-89	§ 32.200(a)(i).
Rogers, Joseph J. (Pittsburgh, PA)	86-0004-02	D	03-07-86	03-06-89	§ 32.200(a).
Rol-Away Systems, Inc. (Hollywood, FL)	85-0079-00	D	12-19-86	12-18-89	§ 32.200(a)(i).
Roland E. McMahon, Inc., (Woodbury, NJ)	86-0009-07	D	07-25-88	01-24-89	§ 32.200(a)(3).
Rupp Construction Company, Inc. (Slayton, MN)	85-0048-00	D	07-17-86	07-16-89	§ 32.200(a).
Rupp, Douglas (Slayton, MN)	85-0048-01	D	07-17-86	07-16-89	§ 32.200(a).
S.M. Electric Company, Inc. (Rahway, NJ)	86-0009-05	D	07-25-88	07-24-91	§ 32.200(a)(3).
Sarandos, Constantino (Gus) (Tacoma, WA)	86-0078-02	D	07-02-86	08-07-89	§ 32.200(c)(i).
Sarandos, Dolores K. (Tacoma, WA)	86-0078-01	D	07-02-86	08-07-89	§ 32.200(c)(i).
Sarandos, George (Tacoma, WA)	86-0078-03	D	07-02-86	08-07-89	§ 32.200(c)(i).
Saunders, George F. (High Point, NC)	85-0017-02	VE	12-10-85	12-09-88	§ 32.200(a)(3).
Sauseda, Roy (Bunkie, LA)	85-0063-02	D	07-29-85	10-13-89	§ 32.200(a)(i).
Schillizzi, Jack (Bronx, NY)	86-0082-32	D	11-09-87	11-08-90	§ 32.200(a).
Service Scaffold, Inc. (S. Fallsburg, NY)	86-0096-00	D	04-24-87	04-23-90	§ 32.200(a).
Sheldon, Cynthia A. (Atlanta, GA)	87-0082-08	D	11-02-87	[2]	§ 32.200.
Short, Robert W. (Montgomery AL)	87-0025-02	D	06-23-88	06-22-91	§ 32.200(a)(1).
Simpson, Walter W. (Baltimore, MD)	88-0055-00	VE	08-16-88	02-15-89	§ 32.200(a)(3).
Smith, Norman F. (Wilbraham, FL)	86-0071-01	D	02-05-87	02-04-90	§ 32.200(a).
Smith, Paul F. (Lakefield, MN)	85-0047-03	D	05-01-86	04-30-89	§ 32.200(a).
Solomon, Newt (Nashville, TN)	85-0058-01	D	10-07-85	10-06-88	§ 32.200(e)(i).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Standard Pipe and Supply Co., Inc. (Bala Cynwyd, PA)	87-0026-00	D	06-27-88	06-26-91	§ 32.200(a)(1).
Tow Brothers Const., Company (Fairmont, MN)	85-0054-00	D	01-22-86	01-21-89	§ 32.200(a).
Tow, James (Fairmont, MN)	85-0054-01	D	01-22-86	01-21-89	§ 32.200(a).
Toy, Daniel Lee (Utica, MI)	86-0010-03	D	12-10-85	12-09-88	§ 32.200(a).
Tubre Enterprises (Bunkie, LA)	85-0062-01	S	07-29-85	([2])	§ 32.200(b).
Tubre Enterprises (Bunkie, LA)	85-0062-00	S	07-29-85	([2])	§ 32.200(b).
Tubre, Charles (Baton Rouge, LA)	85-0062-02	S	07-29-85	([2])	§ 32.200(b).
Tubre, Thomas (Bunkie, LA)	85-0063-01	S	07-29-85	([2])	§ 32.200(b).
Universal Engineering & Supply Inc. (Sulphur, LA)	85-0071-00	D	03-06-86	03-05-89	§ 32.200(a)(b).
Universal Engineering & Supply Inc. (Sulphur, LA)	85-0071-05	D	03-06-86	03-05-89	§ 32.200(a)(b).
Universal Engineering Services, Inc. (Willow Springs, IL)	88-0002-05	S	12-15-87	([2])	§ 32.200(b).
Universal Wheels, Inc. (Sulphur, LA)	85-0071-06	D	03-06-86	03-05-89	§ 32.200(a)(b).
Valentini, Joseph (Ypsilanti, MI)	85-0024-01	D	02-24-86	04-02-89	§ 32.200(a)(b).
Watson Electrical Construction Co. (Wilson, NC)	86-0109-00	D	12-19-86	12-18-89	§ 32.200(i).
Williams, G. Marvin (Asheville, NC)	86-0047-02	D	03-18-86	07-15-89	§ 32.200(i).
Williams, Leo (Salt Lake City, UT)	88-0024-02	VE	06-05-88	06-04-89	§ 32.200.
Wolverine Disposal, Inc. (Ypsilanti, MI)	85-0024-00	D	02-24-86	04-02-89	§ 32.200(a)(b).
X Chem, Inc. (Atlanta, GA)	87-0082-01	D	11-02-87	([2])	§ 32.200.
Young, Frank Paul (Sr.) (Glen Burnie, MD)	86-0011-01	D	08-20-86	08-19-89	§ 32.200(f)(i).

[1] D=Debarred; S=Suspended; VE=Voluntarily Excluded.
[2] Open.

[FR Doc. 88-22484 Filed 9-29-88; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications For Consolidated Hearings; Country Roads Broadcasting Corp. et al.

1. The Commission has before it the following groups of mutually exclusive applications for new FM stations:

Applicant, City and State	File No.	MM Docket No.
I.		
A. Country Roads Broadcasting Corp., Whitley City, KY.	BPH-870904MQ...	88-424
B. Tim Lavender, Whitley City, KY.	BPH-870910NT....	

Issue Heading and Applicants

1. Financial, B
2. Air Hazard, A
3. Environmental, A
4. Comparative, A,B
5. Ultimate, A,B

Applicant, City and State	File No.	MM Docket No.
II.		
A. Newsic, Inc., Cleveland, GA.	BPH-871022MA...	88-423
B. Anthony Lamar Canup and George M. Pass d/b/a White County Broadcasting Co., Cleveland, GA.	BPH-871023MN...	
C. Terry Wayne Barnhardt, Cleveland, GA.	BPH-871026MI.....	
D. Linda B. Guest, Cleveland, GA.	BPH-871026MN...	
E. Saralyn B. Oberdorfer, Cleveland, GA.	BPH-871026MP...	

Issue Heading and Applicant(s)

1. Comparative, All Applicants
2. Ultimate, All Applicants

Applicant, City and State	File No.	MM Docket No.
III.		
A. KBOT, Inc., Cabot, Arkansas.	BPH-870710MM...	88-428
B. Cabot Broadcasting Limited Partnership, Cabot, Arkansas.	BPH-870710MU...	

Issue Heading and Applicant

1. Comparative, Both applicants
2. Ultimate, Both applicants

Applicant, City and State	File No.	MM Docket No.
IV.		
A. Kaw Valley Broadcasting Co., North Fort Riley, KS.	BPH-870710ME...	88-427
B. North Fort Riley Radio, Inc. Partnership, North Fort Riley, KS.	BPH-870710MV...	
C. Anita Kay Cochran, North Fort Riley, KS.	BPH-870710NE....	

Issue Heading and Applicant

1. (See Appendix), A
2. Air Hazard, C
3. Comparative, A,B,C
4. Ultimate, A,B,C

Appendix and Additional Issue

1. To determine: (a) Pursuant to 47 CFR 73.1125(a) whether good cause exists for A (Kaw)'s proposed location of its main studio outside the station's 3.16 mV/m contour; and (b) pursuant to 47 CFR 73.3526(d), whether good cause exists for the proposed location of the public file outside the community to which the station is to be licensed.

Applicant, City and State	File No.	MM Docket No.
V.		
A. Tommy P. and Linda S. Woolsey, Kemmerer, WY.	BPH-870827NR...	88-426
B. Crecelius/ Lundquist Communications Corp., Kemmerer, KY.	BPH-870827NW...	

Issue Heading and Applicant

1. Comparative, Both applicants
2. Ultimate, Both appalicants

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in consolidated proceedings upon the issues listed above for each proceeding. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

3. Non-standardized issues in these proceedings, are set forth in an Appendix to this Notice. A copy of the complete HDO's in these proceedings are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–22452 Filed 9–29–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Grand Coconino Broadcasting et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City and State	File No.	MM Docket No.
A. Rana Maley Steed d/b/a/ Grand Coconino Broadcasting, Flagstaff, AZ.	BPCT–861216IP	88–470
B. G & D Communications, Inc., Flagstaff, AZ.	BPCT–870224KE	
C. Carl M. Fisher Flagstaff, AZ.	BPCT–870331LC	
Chuck Hibbs d/b/a/ Overview Communications, Ltd., Flagstaff, AZ.	BPCT–8703317K	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Short-Spacing, A, B
Contingent Environmental, D
Air Hazard, C
Comparative, A, B, C, D
Ultimate, A, B, C, D
(See Appendix), C, D

3. If there is any non–standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

Appendix—Non–Standardized Issued

2. To determine, with respect to Carl M. Fisher:

(a) The basis for, and the validity of, Carl M. Fisher's estimate of costs to build six new television stations and to operate them without revenues for three months.

(b) Whether Carl M. Fisher had sufficient net liquid assets on hand or available from committed sources to construct and operate the six stations for three months without revenues.

(c) Whether Carl M. Fisher falsely certified that at the time each application was filed, he had sufficient net liquid assets on hand or available from committed sources to construct and operate the six stations for three months without revenues.

(d) If issue (c), above, is resolved in the affirmative, the effect thereof on Carl M. Fisher's basic qualifications to be a commission licensee.

(e) Whether Carl M. Fisher has sufficient net liquid assets on hand or available from committee sources to construct and operate the proposed Flagstaff station for three months without revenues.

(f) Whether, in light of the evidence adduced pursuant to issue (e), above, Carl M. Fisher is financially qualified.

(g) Whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine, with respect to Chuck Hibbs:

(a) Whether the applicant had reasonable assurance that the proposed site specified in MM Docket No. 878–83 would be available to him;

(b) Whether, in light of the evidence adduced pursuant to the foregoing issue, the applicant misrepresented to the Commission the availability of his specified site;

(c) If issue 3(b), above, is resolved in the affirmative, the effect thereof on the applicant's basic qualifications.

4. If a final environmental impact statement is issued with respect to Chuck Hibbs d/b/a/ Overview Communications and Grand Coconino Broadcasting which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act as implemented by § 1.1301–1.1319 of the Commission's Rules.

[FR Doc. 88–22453 Filed 9–29–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Yauco Television Broadcasting et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City and State	File No.	MM Docket No.
A. Pedro O. Seda, M.D. d/b/a Yauco Television Broadcasting, Yauco, PR.	BPCT–870623KI	88–466
B. Maranatha Christian Network, Yauco, PR.	BPCT–870812KF	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A,B
Comparative, A,B
Ultimate, A,B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW.,

Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 88–22454 Filed 9–29–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–011041–001.

Title: Port of Oakland Terminal Agreement.

Parties: Port of Oakland and Hyundai Australia Direct Line (HAD), a joint venture consisting of PAD Line Overseas S.A.; doing business as Pacific Australia Direct Line (PAD) and Hyundai Merchant Marine Co., Ltd.

Synopsis: The agreement provides for the substitution of the joint service HAD for PAD as the new user party in the basic agreement on the condition that in the event of termination of the HAD joint service the individual parties in the joint service, or whichever of the joint service parties continues the West Coast—Australia service covered by the agreement, shall remain as individual parties under the agreement in place of HAD.

By Order of the Federal Maritime Commission.

Dated: September 27, 1988.

[FR Doc. 88–22461 Filed 9–29–88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817 (j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817 (j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 14, 1988.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Abdullah Saleh Abdullah Kamel,* Jeddah, Saudi Arabia; to acquire 100 percent of the voting shares of Wilshire Center Bancorp, Los Angeles, California, and thereby indirectly acquire Wilshire Center Bank, N.A., Los Angeles, California.

Board of Governors of the Federal Reserve System, September 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–22552 Filed 9–29–88; 8:45 am]

BILLING CODE 6210-01-M

Capitalbanc Corp. et al., Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 21, 1988.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *CapitalBanc Corporation,* New York, New York; to engage *de novo* through its subsidiary, Capital Worldwide Remittances, Inc., New York, New York, in the issuance and sale at retail of money orders and similar customer-type payment instruments having a face value of not more than $1,000; the sale of U.S. Savings Bonds; and the issuance and sale of travelers checks, pursuant to § 225.25(b)(12) of the Board's Regulation Y. Comments on this application must be received by October 13, 1988.

2. *The Long-Term Credit Bank of Japan, Ltd.,* Tokyo, Japan; to engage *de novo* through one or more subsidiaries, in advising a mortgage or real estate investment trust pursuant to § 225.25(b)(4)(i); personal property appraising pursuant to § 225.25(b)(13); data processing services pursuant to § 225.25(b)(7); and management consulting to depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *National City Corporation,* and its wholly-owned subsidiary, First Kentucky National Corporation, Louisville, Kentucky; to expand the data processing activities of its present

subsidiary, National Processing Company, through the formation of NPC Internacionale, S.A. de C.V., Jaurez, Mexico pursuant to § 225.25(b)(7) of the Board's Regulation Y and § 211.5(d)(10) of the Regulation Y.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Tokai Bank, Limited,* Tokyo, Japan; to engage *de novo* through its subsidiary, Tokai Credit Corporation, Los Angeles, California, in commercial financing activities pursuant to § 225.25(b)(1); and certain personal leasing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-22413 Filed 9-29-88; 8:45 am]

BILLING CODE 8210-01-M

Cenvest, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 21, 1988.

A. **Federal Reserve bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Cenvest, Inc.,* Meriden, Connecticut; to acquire 100 percent of the voting shares of First Central Bank, Hartford, Connecticut, a *de novo* bank. Comments on this application must be received by October 14, 1988.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of Bermuda Limited,* Hamilton, Bermuda, and Bermuda (U.S.) Holdings Ltd., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Bank of Bermuda (New York) Limited, New York, New York, a *de novo* bank.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Atcorp, Inc.,* Atco, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Atco National Bank, Atco, New Jersey.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *National Bank of Commerce Company,* Charleston, West Virginia; to acquire 100 percent of the voting shares of The Bank of Man, Man, West Virginia.

2. *National Bank of Commerce Company,* Charleston, West Virginia; to acquire 100 percent of the voting shares of Guaranty Shares of West Virginia, Inc., Huntington, West Virginia, and thereby indirectly acquire The Guaranty National Bank of Huntington, Huntington, West Virginia. In connection with this application, NBCC, Inc., Charleston, West Virginia; has applied to become a bank holding company by acquiring 100 percent of the voting shares of The Guaranty National Bank of Huntington, Huntington, West Virginia.

E. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *SouthTrust Corporation,* Birmingham, Alabama; to acquire 80 percent of the voting shares of Meigs County Bancshares, Inc., Decatur Tennessee, and thereby indirectly acquire Meigs County Bank, Decatur, Tennessee.

F. **FEDERAL RESERVE BANK OF CHICAGO** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Dulaney Bancorp, Inc.,* Marshall, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Dulaney National Bank of Marshall, Marshall, Illinois.

2. *First Shares, Inc.,* Platteville, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Platteville, Platteville, Wisconsin.

G. **FEDERAL RESERVE BANK OF ST. LOUIS** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *National City Bancshares, Inc.,* Evansville, Indiana; to acquire 100 percent of the voting shares of The Farmers and Merchants Bank, Fort Branch, Indiana.

H. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *WNB Bancshares, Inc.,* Odessa, Texas, and WNB Financial Corp., Odessa, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Western National Bank, Odessa, Texas.

Board of Governors of the Federal Reserve System, September 26, 1988.

James McAfee,

Associate Secretary of the Board

[FR Doc. 88-22414 Filed 9-29-88; 8:45 am]

BILLING CODE 8210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 23, 1988.

Office of the Secretary

(Call Reports Clearance Office on 202-245-6511 for copies of package).

1. Physician Ownership of, and Compensation from Health Care Provider Entities To Whom They Make Patient Referrals—NEW—The Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360) requires the Inspector General to study and report to Congress by May 1, 1989 on physician ownership and compensation from entities to which they make referrals. The data collection will contact 4,000 physicians and 720 entities to identify the nature and extent of such relationships. Respondents:

Businesses or other for-profit, Small businesses or organizations; Entity Survey (ES)-Number of Respondents: 720; Physicians Survey (PS)-Number of Respondents: 2800; Frequency of Response: (ES)–1; (PS)–1; Average Burden per Response: (ES)–6; (PS)–.5; Estimated Annual Burden: 5,720.

Family Support Administration

(Call Reports Clearance Office on 202–245–0642 for copies of package)

1. OCSE–56 Statistical/Financial Reporting Form—0057–0970—The information obtained from this form will be used to report Child Support Enforcement (CSE) activities to the Congress (required by law) and to complete performance indicators utilized in program audits. Also, assists the Office Child Support Enforcement (OCSE) in monitoring and evaluating State CSE programs. Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 216; Average burden per response: 4; Estimated Annual Burden: 637.2.

2. Quarterly Report of Expenditures and Estimates OCSE–131—NEW—Information is needed to compute quarterly grant awards and to estimate incentive payments to States, for required recordkeeping, and to prepare appropriation request and annual reports to Congress. Respondents: 35; State or local governments; Number of Respondents: 54; Frequency of Response: 6; Average burden per response: 3.5; Estimated Annual Burden: 1,134 hours.

3. Quarterly Report and Expenditures and Estimates FSA–231—NEW—Data is needed for the AFDC program to make quarterly grant awards, review State expenditures, prepare adjustments to grant awards and to establish budget estimates. These estimates serve as requirements for a quarterly report to Congress. Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 6; Average burden per response: 3.66 hours; Estimated Annual Burden: 1,118 hours.

4. Information Collection Requirements contained in regulations on Medical Support Enforcement—0970–0070 and Final Regulations. Existing regulations (0970–0070) require State IV-D agencies to secure medical support information and to transmit the information to the State Medicaid agency for use in the third party liability program and to require State IV–D agencies to establish and enforce medical support obligation in appropriate child support cases. Respondents: State agencies; Number of Respondents: 54; Frequency of Responses: on occasion; Average Burden per Response: .0083 hours; Average Burden per Recordkeeper: 56.38; Estimated Annual Burden: 11,421 hours.

New regulations require State IV–D agencies to develop written criteria for use in identifying additional child support cases where there is a potential for obtaining medical support and to require State IV–D agencies to provide health insurance policy information to custodial parents so that they may submit claims for health care provided to their dependent children. Respondents: State agencies, individual households; Number of Respondents: 108,000; Recordkeepers: 54; Frequency of Response: on occasion; Average Burden per Response: .0083 hours; Average Burden per Recordkeeper: 40; Estimated Annual Burden: 3,060 hours.

Health Care Financing Administration

(Call Reports Clearance Officer on 301–594–1238 for copies of package)

1. Hospital Survey Report Form—0938–0382—This survey form is an instrument used by the State agency to record data collected in order to determine compliance with the revised hospital conditions of participation and report it to the Federal government. Respondents: State agency surveyors; Number of Respondents: 53; Frequency of Response: Annual; Average burden per response: 3; Estimated Annual Burden: 4,617.

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

PHS: (202) 245–2100
HCFA: (301) 966–2088
FSA: (202) 245–0652
SSA: (301) 965–4149
OS: (202) 245–6511
OHDS: (202) 472–4415

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, ATTN: Shannah Koss-McCallum.

Dated: September 27, 1988.

James V. Oberthaler,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 88–22579 Filed 9–29–88; 8:45 am]

BILLING CODE 4210–01–M

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 23, 1988.

Health Care Financing Administration

(Call Reports Clearance Officer on 301–594–1238 for copies of package)

1. Survey of Self-Insured Plans—0938–0389—The HCFA–475 is used to obtain an annual update of changes within the independent health plans, primarily births and deaths. Respondents: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations; Number of Respondents: 300; Frequency of Response: 1; Average burden per response: 7.5 minutes; Estimated Annual Burden: 37.5 hours.

2. Hospital and Hospital Health Care Complex Cost Report—0938–0050—Providers of services participating in the Medicare Program are required to submit annual information to achieve settlement of costs for hospital services rendered to Medicare beneficiaries. Respondents: State or local governments, Federal agencies or employees; Number of Respondents/Recordkeepers: 7,000/7,000; Frequency of Response: 1; Average Burden per Response-Survey/Recordkeeping: 54/549; Estimated Annual Burden: 4,433,560 hours.

Public Health Service

(Call Reports Clearance Officer on 202–245–2100 for copies of package)

1. List of Ingredients Added to Tobacco in the Manufacture of Cigarettes—0920–0210—This data collection is a result of the implementation of Pub. L. 98–474. This legislation requires cigarette manufacturers, packagers, and importers to submit a list of the ingredients added to tobacco in the manufacture of cigarettes. This list should include each ingredient additive, along with its common name, chemical name, and chemical abstract number (CAS), and be submitted to the Secretary, DHHS. Respondents: Businesses or other for-profit, Small businesses or Organizations; Number of Respondents: 20; Frequency of Response: 1; Average burden per

response: 2; Estimated Annual Burden: 40 hours.

2. NHIS Medical Record Evaluation (Concept Clearance)—NEW—The National Health Interview Survey, an ongoing survey of the civilian, non-institutionalized population, monitors the nation's health. This study will evaluate procedures for collecting diagnostic data from household respondents. Survey data from household interviews will be compared to data from medical records. Respondents: Individuals or households. Since this is only a concept clearance, the following burden estimates are provided: Number of Respondents: 1; Frequency of Response: 1; Average burden of response: 1 hour; Estimated Annual Burden: 1 hour. These estimates will be reestimated when the concept is approved.

Office of Human Development Services

(Call Reports Clearance Officer on 202–472–4415 for copies of package)

1. Program Performance Standards–Runaway and Homeless Youth Centers–Self-Assessment Instrument—0980–0037—The Runaway and Homeless Youth Self-Assessment Instrument provides a format for Runaway and Homeless Youth Program grantees to assess their conformance to the program performance standards. This process accomplishes self-evaluation for the grantees and provides necessary data for responsible federal oversight. Respondents: State or local governments, Non-profit institutions; Number of Respondents: 317; Frequency of Response: 1; Average burden per response: 3; Estimated Annual Burden: 951 hours.

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

PHS: (202) 245–2100
HCFA: (301) 966–2088
FSA: (202) 245–0652
SSA: (301) 965–4149
OS: (202) 245–6511
OHDS: (202) 472–4415

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, ATTN: Shannah Koss-McCallum

Date: September 26, 1988.

James V. Oberthaler,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 88–22473 Filed 9–29–88; 8:45 am]

BILLING CODE 4410–60–M

Centers For Disease Control

National Institute For Occupational Safety and Health; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC):

Name: Peer Review of the NIOSH "Study of Occupational Injuries Among Line Mechanics (Linemen)".

Date: October 18, 1988.

Place: Division of Safety Research, Room 138A, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505–2888.

Time: 8:30 a.m.—3:30 p.m.

Status: Open to the public, limited only by space available.

Purpose: To convene a public meeting to obtain comments on a draft research protocol for a NIOSH study aimed at identifying potential injury risk factors and developing recommendations to reduce the risk of injuries and fatalities to utility line mechanics (linemen).

Additional information may be obtained from: Jim Collins, Division of Safety Research, NIOSH, Mail Stop S109, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505–2888, Telephone: Commercial: (304) 291–4411, FTS: 923–4411.

Dated: September 26, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–22470 Filed 9–29–88; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 88G–0288]

Fuji Oil Co., Ltd.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Fuji Oil Co., Ltd., has filed a petition (GRASP 8G0343), proposing that sheanut oil be affirmed as generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by November 29, 1988.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HHF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Fuji Oil Co., Ltd., 6–1, Hachiman-cho, Minami-ku, Osaka 542, Japan, has filed a petition (GRASP 8G0343), proposing that sheanut oil be affirmed as GRAS for use as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before November 29, 1988, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 22, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-22420 Filed 9-29-88; 8:45 am]

BILLING CODE 4160-01-M

Request for Nominations for a Representative of Industry Interests on the Ophthalmic Devices Panel

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for an industry representative to serve on the Ophthalmic Devices Panel. FDA has a special interest in ensuring that women, minority groups, the physically handicapped, and small businesses are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates, and nominations from small businesses that manufacture medical devices subject to the regulations.

DATE: Nominations should be received by November 29, 1988.

ADDRESS: All nominations and curricula vitae (which includes nominee's office address and telephone number) shall be submitted in writing to Kay Levin (address below).

FOR FURTHER INFORMATION CONTACT: Kay Levin, Center for Devices and Radiological Health (HFZ-20), Food and Drug Administration, 12720 Twinbrook Parkway, Rockville, MD 20857, 301-443-4016.

SUPPLEMENTARY INFORMATION:

Function

The functions of the Ophthalmic Devices Panel are to: (1) Review and evaluate available data concerning the safety and effectiveness of ophthalmic devices currently in use; (2) advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories; (3) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; (4) advise on any possible risks to health associated with the use of devices; (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; (6) review classification as appropriate; (7) recommend exemption to certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act (the act); (8) advise on the necessity to ban a device; and (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Industry Representation

Section 513 of the act (21 U.S.C. 360c) provides that each medical devices panel include as a nonvoting member one representative of the interests of the device manufacturing industry.

Nomination Procedure

Any organization in the medical device manufacturing industry ("industry interests") wishing to participate in the selection of an appropriate member for this panel may nominate one or more qualified persons to represent industry interests. Persons who nominate themselves as industrial representatives will not participate in the selection process. It is, therefore, recommended that all nominations be made by someone with an organization or firm who is willing to participate in the selection process.

Nominations shall include a complete curriculum vitae of each nominee and shall state that the nominee is aware of the nomination and is willing to serve as a member. The term of office is between three and four years, depending on the appointment date.

Selection Procedure

A letter will be sent to each organization that has made a nomination and to those organizations indicating an interest in participating in the selection process, together with a complete list of all such organizations and nominees. This letter will state that it is the responsibility of each organization to consult with the others in selecting a single member to represent industry interests for the Ophthalmic Devices Panel within 60 days after receipt of the letter.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: September 26, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-22496 Filed 9-29-88; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[OACT-018-N]

Medicare Program; Monthly Actuarial Rates and Part B Premium Rates Beginning January 1, 1989

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

ACTION: Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare supplementary medical insurance program (Part B) for calendar year 1989, and the monthly Part B premium rate based on these actuarial rates to be paid by all enrollees during calendar year 1989. The 1989 monthly Part B premium will be increased from $24.80 to $27.90. It also announces the Part B premium adjustments imposed by the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360).

EFFECTIVE DATE: January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Carter S. Warfield, (301) 966-6396.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare supplementary medical insurance (SMI) program is the voluntary Medicare Part B program that pays all or part of the costs for physician services, outpatient hospital services, home health services, services furnished by rural health clinics, ambulatory surgical centers, and for comprehensive outpatient rehabilitation facilities, and certain other medical and health services not covered by hospital insurance (Medicare Part A). The SMI program is available to individuals who are entitled to hospital insurance and to U.S. residents who have attained age 65 and are citizens or aliens who were lawfully admitted for permanent residence and have resided in the United States for five consecutive years. This program requires enrollment and payment of monthly premiums as provided in 42 CFR Part 405, Subpart B, and Part 408, respectively. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government. (Part 408 was published at 52 FR 48112, December 17, 1987, and redesignated regulations formerly at Subpart I of 42 CFR Part 405.)

The Secretary of Health and Human Services is required by section 1839 of the Social Security Act (the Act) (42 U.S.C. 1395r) to issue annual notices

relating to the SMI program. These notices contain monthly actuarial rates, the monthly SMI premium rate paid by enrollees, and adjustments in the premium to insure against catastrophic expenses.

II. Monthly Actuarial Rates

One notce required by section 1839 of the Act announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates."

As required by sections 1839(a)(1) and (4) of the Act (42 U.S.C. 1395r(a) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for calendar year 1989 are $55.80 for enrollees age 65 and over and $34.30 for disabled enrollees under age 65. The accompanying statement (section V.) gives the actuarial assumptions and bases from which these rates are derived.

III. Monthly SMI Premium Rates

The second notice required by section 1839 of the Act announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are different than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Pub. L. 92–603, (the Social Security Amendments of 1972) and until the passage of section 124 of Pub. L. 97–248 (the Tax Equity and Fiscal Responsibility Act of 1982), the premium rate was limited by section 1839 of the Act to the lesser of the monthly actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II (cash payments) social security benefits.

Section 124 of Pub. L. 97–248 changed the premium basis to 25 percent of program costs.

Section 606 of Pub. L. 98–21, section 2302 of Pub. L. 98–369, section 9313 of Pub. L. 99–272 and section 4080 of Pub. L. 100–203 amended section 1839 of the Act to extend through 1989 the provision that the premium be based on 25 percent of program costs. In January 1990, calculation of the premium rate will revert to the method in § 1839(a) of the Act used before the passage of these public laws, except that it will remain on a calendar year basis. (See section 1839(e) of the Act.)

A further provision affecting the calculation of the SMI premium is section 1839(f) of the Act as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360). Section 1839(f) now provides that is an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the SMI premiums (including the Part B catastrophic and prescription drug premiums; see below) deducted from these benfit payments, the total premium increase will be reduced to avoid causing a decrease in the individual's benefit payment. This occurs if the increase in the individual's social security benefit due to the cost of living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's SMI premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits.* (This change in effect perpetuates former amendments that prohibited SMI premium increases from reducing an individual's benefits in year the dollar amount of the individual's cost of living increase in benefits was not at least as great as the dollar amount of the individuals' SMI premium increase).

Generally, the reduced premiums for the individual for that January and for each of the succeeding 11 months for which he or she is entitled to benefits under section 202 or 223 of the Act is the greater of the following:

(1) The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the SMI premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the SMI premium for December; or

(2) The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount has been established under section 1839(f) of the Act, it will not be changed during the calendar year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in the SMI program late or have reenrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. That increase is a percentage of the premium and would be based on the new premium rate before any reductions under section 1839(f) are made or any rounding off under section 1839(g)(6) of the Act are made (see section IV, below of catastrophic coverage concerning additions to premium.)

As required by section 1839(a)(3), (e)(1) and (f) of the Act as amended (42 U.S.C. 1395r(a)(3), (e)(1) and (f)), I have determined that the standard monthly premium amount will be $27.90 during calendar year 1989. However, if monthly Social Security benefits are not increased for 1989, the premium will not be increased but will remain at $24.80 monthly. Also, if an individual's cost of living increase for 1989 to his or her monthly Social Security benefit is not as much as his or her increase in Part B premiums, including the catastrophic Part B premium, the individual's Social Security benefits will not be decreased below his or her level of benefits for December of 1988.

The accompanying statement in Section V of this notice shows how the standard premium amount was derived.

IV. Catastrophic Coverage Premium

On July 1, 1988, Congress enacted Pub. L. 100–360, the Medicare Catastrophic Coverage Act of 1988. It provides protection to Medicare beneficiaries whose Medicare expenses exceeded certain limits. To pay for this additional coverage for Part B the law provides for new premiums beneficiaries will pay in addition to the current SMI premium. This notice addresses only the catastrophic coverage monthly premium for 1989. (Under Pub. L. 100–360, benefit changes occur on a phased-in basis over several years, beginning in 1990. Other new premiums and changes to the Part B premiums for subsequent years will be discussed in subsequent notices.)

As required by section 1839(g)(1)(A) of the Act, the catastrophic coverage premium for calendar year 1989 is $4.00. There are two exceptions to this

*Note: A check for benefits under section 202 or 223 is received in the month following the month for which the benefits are due. The SMI premium that is deducted from a particular check is the SMI payment for the month in which the check is received. Therefore, a benefit check for November is not received until December and has the December's SMI premium deducted from it.

amount, as required by section 1839(g)(4) and (5), respectively:

1. The monthly catastrophic coverage premium for calendar year 1989 is $1.30 for residents of Puerto Rico and $2.10 for residents of other U.S. territories and commonwealths; and

2. There is no catastrophic coverage premium for 1989 for individuals enrolled in Part B only (their new premium begins in 1990).

V. Statement of Actuarial Assumptions, and Bases Employed in Determining the Monthly Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1989

A. Actuarial Status of the Supplementary Medical Insurance Trust Fund

Under the law, the starting point for determining the monthly premium is the amount that would be necessary to finance the SMI program on an incurred basis; i.e. the amount of income that would be sufficient to pay for services furnished during that year (including associated adminstrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the calendar year is added to the trust fund and used when needed.

Because the rates are established prospectively, they are subject to projection error. Additionally, legislation enacted after the financing has been established, but effective for the period for which the financing has been set, may affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of variation between actual and projected costs in addition to the amount of incurred but unpaid expense. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 1987 through 1988.

TABLE 1.—Estimated Actuarial Status of the SMI Trust Fund as of the End of the Financing Periods, Jan. 1, 1987 to Dec. 31, 1988

[In millions of dollars]

Financing period ending	Assets	Liabilities	Assets less liabilities
Dec. 31, 1987	[1] $8,394	$5,126	[1] $3,268
Dec. 31, 1988	7,484	6,131	1,353

[1] Section 708 of Title VII of the Social Security Act modified the provisions for the delivery of Social Security benefit checks when the regularly designated delivery day falls on a Saturday, Sunday, or legal public holiday. Delivery of benefit checks normally due January 1988 occurred on December 31, 1987. Consequently, the SMI premiums withheld from the checks ($692 million) and the general revenue matching contributions ($2,178 million) were added to the SMI trust fund on December 31, 1987.

B. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half of the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of variation between actual and projected costs and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for calendar year 1989 was determined by projecting per-enrollee cost for the 12-month periods ending June 30, 1989 and June 30, 1990 by type of service. Although the actuarial rates are now applicable for calendar years, projections of per-enrollee costs were determined on a July to June period, consistent with the July 1 annual fee screen update used for benefits before the passage of section 2306(b) of Pub. L. 98–369. The values for the 12-month period ending June 30, 1986 were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. Those per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from January 1, 1986, through December 31, 1989, are shown in Table 3.

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TABLE 2--PROJECTION FACTORS [1/]
12-MONTH PERIODS ENDING JUNE 30 OF 1986-1990
(In percent)

12-month period ending June 30	Physicians' services		Outpatient hospital services	Home health agency services [4/]	Group practice prepayment plans	Independent lab services
	Fees [2/]	Residual [3/]				
Aged:						
1986	0.0	9.9	19.9	13.3	60.7	40.5
1987	4.8	8.8	22.9	-3.6	33.6	23.8
1988	3.6	6.3	19.2	10.6	50.4	19.7
1989	2.8	5.9	15.7	11.7	25.0	13.6
1990	3.4	5.5	18.6	10.1	19.8	20.2
Disabled:						
1986	0.0	6.2	16.0	0.0	36.0	40.4
1987	4.8	7.4	11.5	0.0	37.1	22.5
1988	3.6	6.1	9.8	0.0	45.1	16.2
1989	2.8	5.8	4.9	0.0	19.7	13.8
1990	3.4	5.6	9.6	0.0	15.6	20.1

1/ All values are per enrollee.
2/ As recognized for payment under the program.
3/ Increase in the number of services received per enrollee and greater relative use of more expensive services.
4/ Since July 1, 1981, home health agency services have been almost exclusively provided by the Medicare hospital insurance (HI) program. However, for those SMI enrollees not entitled to HI, the coverage of these services is provided by the SMI program. Since all SMI disabled enrollees are entitled to HI, their coverage of these services is provided by the HI program.

TABLE 3 — DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER FINANCING PERIODS ENDING DECEMBER 31, 1986 THROUGH DECEMBER 31, 1989

	Financing Periods			
	CY 1986	CY 1987	CY 1988	CY 1989
Covered services (at level recognized):				
Physicians' reasonable charges	$34.70	$38.85	$42.54	$46.36
Outpatient hospital and other institutions	8.46	10.22	11.99	14.06
Home health agencies	0.05	0.05	0.06	0.06
Group practice prepayment plans	2.05	2.93	3.96	4.84
Independent lab	0.99	1.20	1.40	1.64
Total services	$46.25	$53.25	$59.95	$66.96
Cost-Sharing:				
Deductible	-2.66	-2.69	-2.71	-2.72
Coinsurance	-7.87	-9.11	-10.34	-11.60
Total benefits	$35.72	$41.45	$46.90	$52.64
Administrative expenses	1.33	1.32	1.36	1.41
Incurred expenditures	$37.05	$42.77	$48.26	$54.05
Value of interest	-0.92	-0.42	-0.23	-0.68
Contingency margin for projection error and to amortize the surplus or deficit	-5.13	-6.55	1.57	2.43
Monthly actuarial rate	$31.00	$35.80	$49.60	$55.80

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The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for calendar year 1989 is $54.05. The monthly actuarial rate of $55.80 provides an adjustment of −$0.68 for interest earnings and $2.43 for a contingency margin. Based on current estimates, it appears that with respect to enrollees age 65 and over the assets are not sufficient to cover the amount incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a positive contingency margin is needed to build assets toward a more appropriate level.

An appropriate level for assets depends on numerous factors. The most important of these factor are: (1) The difference from prior years in the actual performance of the program and estimates made at the time financing was established and (2) the expected relationship between incurred and cash expenditures. Ongoing analysis is made of the former as the trends in the differences vary over time.

C. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement (before age 65) to disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projection for the aged, using appropriate actuarial assumptions (see Table 2). Costs for the end-stage renal disease program are projected differently because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

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TABLE 4 — DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES
FINANCING PERIODS ENDING DECEMBER 31, 1986 THROUGH DECEMBER 31, 1989

	Financing Periods			
	CY 1986	CY 1987	CY 1988	CY 1989
Covered services (at level recognized):				
Physicians' reasonable charges	$37.73	$42.24	$46.24	$50.28
Outpatient hospital and other institutions	21.07	22.46	23.46	24.33
Home health agencies	0.00	0.00	0.00	0.00
Group practice prepayment plans	0.79	1.12	1.46	1.71
Independent lab	1.06	1.26	1.45	1.66
Total services	$60.65	$67.08	$72.61	$77.98
Cost-Sharing:				
Deductible	-2.49	-2.51	-2.52	-2.53
Coinsurance	-10.86	-12.01	-13.02	-13.98
Total benefits	$47.30	$52.56	$57.07	$61.47
Administrative expenses	1.77	1.68	1.66	1.66
Incurred expenditures	$49.07	$54.24	$58.73	$63.13
Value of interest	-8.06	-8.83	-9.82	-7.26
Contingency margin for projection error and to amortize the surplus or deficit	-0.21	7.59	-0.31	-21.57
Monthly actuarial rate	$40.80	$53.00	$48.60	$34.30

BILLING CODE 4120-01-C

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for calendar years 1989 is $63.13. The monthly actuarial rate of $34.30 provides an adjustment of −$7.26 for interest earnings and −$21.57 for a contingency margin. Based on current estimates, it appears that the disabled assets are more than sufficient to cover the amount of disabled incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a negative contingency margin is needed to reduce disabled assets to more appropriate levels.

D. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. One set represents increases that are lower and is, therefore, more optimistic than the current estimate. The other set represents increases that are higher and is, therefore, more pessimistic than the current version. The values for the alternative assumptions were determined from a study on the average historical variation between actual and projected increases in the respective increase factors. All assumptions not shown in Table 5 are the same as in Table 2.

BILLING CODE 4120-01-M

Table 5.--ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 1989

	This projection			Low cost projection			High cost projection		
	12-month period ending June 30,			12-month period ending June 30,			12-month period ending June 30,		
	1988	1989	1990	1988	1989	1990	1988	1989	1990
Projection factors (in percent):									
Physician fees 1/									
Aged	3.6	2.8	3.4	3.3	2.0	2.2	3.8	3.5	4.5
Disabled	3.6	2.8	3.4	3.3	2.0	2.2	3.8	3.5	4.5
Utilization of physician services 2/									
Aged	6.3	5.9	5.5	4.5	4.2	2.3	8.2	7.5	8.6
Disabled	6.1	5.8	5.6	2.0	1.2	0.7	10.3	10.3	10.6
Outpatient hospital services per enrollee									
Aged	19.2	15.7	18.6	13.8	7.3	11.2	24.6	24.1	26.0
Disabled	9.8	4.9	9.6	5.3	-7.6	-4.6	14.4	17.4	23.7
	As of December 31,			As of December 31,			As of December 31,		
	1987	1988	1989	1987	1988	1989	1987	1988	1989
Actuarial status (in millions):									
Assets	3/ $8,394	$7,484	$8,515	3/ $8,394	$9,166	$13,758	3/ $8,394	$5,724	$2,879
Liabilities	5,126	6,131	7,008	4,254	5,061	5,642	6,008	7,225	8,444
Assets less liabilities	3/ $3,268	$1,353	$1,507	3/ $4,140	$4,105	$8,116	3/ $2,386	-$1,501	-$5,565
Ratio of assets less liabilities to expenditures (in percent) 4/	3/ 8.7	3.2	3.1	3/ 11.7	10.5	18.5	3/ 6.1	-3.2	-10.2

1/ As recognized for payment under the program.

2/ Increase in the number of services received per enrollee and greater relative use of more expensive services.

3/ Section 708 of Title VII of the Social Security Act modified the provisions for the delivery of Social Security benefit checks when the regularly designated delivery day falls on a Saturday, Sunday, or legal public holiday. Delivery of benefit checks normally due January 1988 occurred on December 31, 1987. Consequently, the SMI premiums withheld from the checks ($692 million) and the general revenue matching contributions ($2,178 million) were added to the SMI trust fund on December 31, 1987.

4/ Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

BILLING CODE 4120-01-C

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $1,507 million by the end of December 1989. This amounts to 3.1 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors) produce a deficit of $5,565 million by the end of December 1989, which amounts to 10.2 percent of the estimated total incurred expenditures for the following year. Under these more pessimistic assumptions, assets will be insufficient to cover outstanding liabilities. However, the cash balances in the Trust Fund should remain positive, allowing claims to be paid. Under fairly optimistic assumptions, the monthly actuarial rates will result in a surplus of $8,116 million by the end of December, 1989, which amounts to 18.5 percent of the estimated total incurred expenditures for the following year.

E. Standard Premium Rate

For calendar years 1984 through 1989, section 1939(e) of the Act provides that the standard monthly premium rate for both aged and disabled enrollees shall be 50 percent of the monthly actuarial rate for enrollees age 65 and older. Therefore, the standard monthly premium rate for both aged and disabled enrollees for calendar year 1989 is $27.90, which is 50 percent of the monthly actuarial rate for enrollees aged 65 and over for this period ($55.80).

VI. Regulatory Impact Statement

The standard monthly SMI premium rate of $27.90 for all enrollees during calendar year 1989 is 12.5 percent higher than the $24.80 monthly premium amount for the previous financing period. The estimated cost of this increase over the current premium to the approximately 32.3 million SMI enrollees will be about $1,201 million for calendar year 1989. The catastrophic coverage premium, which affects most Part B beneficiaries, is $4.00 ($1.30 for residents of Puerto Rico, $2.10 for residents of other territories and commonwealths, and $0 for Part B-only enrollees). The estimated cost of this increase to Medicare beneficiaries will be about $1,503 million for calendar year 1989.

This notice merely announces amounts required by section 1839 of the Act. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulations. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612) or section 1102(b) of the Act.

(Section 1839 of the Social Security Act; 42 U.S.C. 1395r)

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 23, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved September 26, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-22628 Filed 9-29-88; 8:45 am]

BILLING CODE 4120-01-M

[OACT-017-N]

Medicare Program; Inpatient Hospital Deductible for 1989

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

ACTION: Notice.

SUMMARY: This notice announces that the inpatient hospital deductible for calendar year 1989 under Medicare's hospital insurance program (Part A) is $560. The Medicare statute specifies the formula to be used to determine this amount.

EFFECTIVE DATE: January 1, 1989.

FOR FURTHER INFORMATION, CONTACT: Barbara S. Klees, (301) 966-6388.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1813 of the Social Security Act (the Act) (42 U.S.C. 1395e) provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished an individual. Section 1813(b)(2) of the Act requires the Secretary to determine and publish by September 15 of each year the amount of the inpatient hospital deductible applicable for the following calendar year.

Computing the Deductible

Section 9301 of Pub. L. 99-509 amended section 1813(b) of the Act to establish for years after 1987 the method for computing the amount of the inpatient hospital deductible. The deductible specified for 1987 was $520 and, under the formula specified in the law, the deductible for subsequent calendar years is the deductible for the preceding year mutiplied by the same percentage increase (that is, the update factor) used for updating the prospective payment rates for inpatient hospital services effective October 1 of the same preceding year and adjusted to reflect real case mix. The amount so determined is rounded to the nearest multiple of $4. The deductible for 1988 calculated in this manner is $540.

Section 1813 of the Act was further amended by section 4002(f) of Pub. L. 100-203, as amended by section 411(b)(1)(H)(ii) of Pub. L. 100-360, to require that, beginning January 1989, the deductible be changed each year by the Secretary's best estimate of the payment-weighted average of the applicable percentage increases used for updating the payment rates for hospitals (according to whether they are prospective payment system (PPS) hospitals in rural, large urban, or other urban areas or are hospitals excluded from PPS) and adjusted to reflect real case mix. (Without this amendment, we would have been required to assess four different deductibles, according to the status or location of the hospital to which a beneficiary was admitted when a deductible is applicable.)

Section 1886(b)(3)(B) of the Act, as amended by section 4002 of Pub. L. 100-203, requires the applicable percentage increases for fiscal year 1989 for Medicare prospective payment rates to be the market basket percentage increase minus 1.5 percent for rural hospitals, minus 2.0 percent for large urban hospitals, and minus 2.5 percent for other urban hospitals. The market basket percentage increase that we are using for fiscal year 1989 is 5.4 percent. Therefore, the percentage increases for Medicare prospective payment rates are 3.9 percent for rural hospitals, 3.4 percent for large urban hospitals, and 2.9 percent for other urban hospitals; the payment percentage increase for hospitals excluded from PPS is 5.4 percent. Our best estimate of the payment-weighted average of these increases in the payment rates is 3.3 percent.

A case-mix index is calculated for each hospital reflecting the relative costliness of that hospital's mix of cases compared to a national average mix of cases. We computed the increase in average case mix for hospitals paid under PPS in fiscal year 1988 compared to fiscal year 1987. (Hospitals excluded from PPS were excluded from this calculation, since their payments are unaffected by increases in case mix.) We used PPS bills available to us as of the end of July 1988. This is a total of about 6.4 million discharges for fiscal year 1988. The increase in average case

mix in fiscal year 1988 is computed to be 2.66 percent.

Although the case mix index has increased by 2.66 percent in fiscal year 1988, section 1813 of the Act requires that the inpatient hospital deductible be increased only by that portion of the case mix increase that is determined to be real. The long-term trend in real case mix increase was determined to be approximately 0.5 percent. During the first few years of the prospective payment system, estimated real case mix increases exceeded that level, primarily because of the shift of many lower-cost treatments out of the inpatient hospital setting. This shift out of the inpatient hospital setting resulted in declining Medicare hospital admissions. However, during 1988, hospital admission patterns have returned to levels consistent wtih long-term trends. Furthermore, we have observed that nearly 0.9 percent of the 2.66 percent case mix increase is associated with changes in the DRG classification and changes in the relative DRG weights. Therefore, there is no reason to believe that real case mix increase has not also returned to the long-term determining the 1989 inpatient hospital deductible, we are estimating the real case mix increase at 0.5 percent

Thus, the estimate of the payment-weighted average of the applicable percentage increases used for updating the payment rates is 3.3 percent, and the case-mix adjustment factor for the deductible is 0.5 percent.

II. Inpatient Hospital Deductible For 1989

The inpatient hospital deductible for calendar year 1989 is $540 times the payment rate increase of 1.033 times the increase in average real case mix of 1.005, which equals $560.61 and is rounded to $560.

III. Costs to Beneficiaries

Section 102 of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360) amended section 1813 of the Act so that there is only one deductible for hospitalization per year and there are no longer any coinsurance amounts for days 61 through 90 of hospitalization or for lifetime reserve days.

The estimated cost to beneficiaries due to the deductible increase is $150 million. That amount is, for 1989, based on an estimated 7.3 million beneficiaries who will be admitted to a hospital and be subject to the deductible. The cost is offset by an estimated $800 million, which represents the savings to beneficiaries from multiple admissions being subject only to an annual deductible and no longer subject to a deductible for each spell of illness, and from removal of the requirement for coinsurance amounts for hospital services.

IV. Regulatory Impact Statement

This notice merely announces an amount required by legislation. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulation or policy. Therefore, we have determined, and the Secretary cerifies, that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612) or section 1102(b) of the Act.

(Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 23, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: September 27, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88–22629 Filed 9–29–88; 8:45 am]

BILLING CODE 4120–01–M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Combined Meeting of Basic Sciences I Subcommittee and Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Basic Sciences I Subcommittee, and the Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on November 8–10, 1988, at the Hyatt Regency Bethesda, 1 Bethesda Metro Center, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on November 8 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the Basic Sciences I Subcommittee and the Basic Sciences II Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until recess on November 8, from 8:30 a.m. until recess on November 9, and from 8:30 a.m. until adjournment on November 10. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy an Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Olivia T. Preble, Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 3A10, Bethesda, Maryland 20892, telephone (301–496–8208), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: September 21, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–22415 Filed 9–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological and Communicative Disorders and Stroke; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, Division of Intramural Research on November 2–4, 1988, Conference Room 5C101, Building 10, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 5 p.m. on November 3 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 8 p.m. to 10 p.m. on November 2 and from 9 a.m. until adjournment on November 4 for the review, discussion

and evaluation of individual programs and projects. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Mr. David Mineo, Federal Building, Room 1004, 7550 Wisconsin Avenue, Bethesda, MD 20892, Telephone (301) 496–9231 or the Executive Secretary, Dr. Irwin J. Kopin, Director, Intramural Research Program, NINCDS, Building 10, Room 5N214, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496–4297, will furnish a summary of the meeting and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: September 21, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–22417 Filed 9–29–88; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Meeting of Literature Selection Technical Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, Natioinal Library of Medicine, on October 27–28, 1988, convening each day at 9:00 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on October 27 will be open to the public from 9:00 a.m. to 12:00 noon for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(9)(B), Title 5, U.S.C., Pub. L. 92–463, the meeting will be closed on October 27 from approximately 12:00 noon to 5:00 p.m. and on October 28 from 9:00 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Executive Secretary of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: September 21, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–22416 Filed 9–29–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–88–1872; FR–2573]

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice announces a debenture recall of certain General Insurance Fund debentures, in accordance with authority provided in the National Housing Act.

FOR FURTHER INFORMATION CONTACT: Richard Keyser, Chief, Financial Procedures and Review Branch, Office of Financial Management, Room 9138, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755–1591. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to section 207(j) of the National Housing Act, 12 U.S.C. 1713(j), and in accordance with HUD regulations at 24 CFR 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all General Insurance Fund debentures (MM series) with coupon rates of 9 percent or higher, outstanding as of September 30, 1988. The date of the call is January 1, 1989. To insure timely payment, debentures should be presented to the Federal Reserve Bank of Philadelphia by December 1, 1988.

The debentures will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. Final interest on any called debenture will be paid with the principal at redemption. During the period from the date of this notice to the call date, debentures that are subject to the call may not be used by a mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer or denominational exchanges of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 1988. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after October 1, 1988, and provision will be made for the payment of final interest due on January 1, 1989, with the principal thereof, to the actual owner, as shown by the assignments thereon.

Instructions for the presentation and surrender of debentures for redemption will be provided by the Department of the Treasury.

Dated: September 22, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 88–22616 Filed 9–29–88; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–010–08–4410–10]

Availability of Proposed Planning Criteria and Pre-Planning Analysis for the Bishop Resource Management Plan; Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to 43 CFR 1610.4–2, notice is hereby given of the availability of proposed planning criteria and pre-planning analysis for the Bishop Resource Management Plan (RMP).

SUPPLEMENTARY INFORMATION: The Bishop Resource Area (the area covered by the plan) contains approximately 750,000 acres of BLM land in Mono and Inyo Counties in the eastern Sierra portion of California. The planning effort, which will include both a draft and final environmental impact statement on the various alternatives considered, in scheduled for completion in the fall of 1990. Copies of the initial planning criteria and the pre-planning analysis are available upon request at the following locations: Bakersfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California 93301, (805) 861–4206; and Bishop Resource Area, 787 N. Main Street, Suite P, Bishop, California 93514, (619) 872–4881.

DATE: Comments should be sent to the Bishop Resource Area not later than October 31, 1988.

FOR FURTHER INFORMATION CONTACT: James S. Morrison, Bishop Resource Area Manager, at the Bishop address listed above.

Dated: September 23, 1988.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 88-22558 Filed 9-29-88; 8:45 am]

BILLING CODE 4310-40-M

[UT-060-08-4211-15-FLJH]

Moab District, UT; Company Stay Limits

AGENCY: Bureau of Land Management, Moab.

ACTION: Establishment of camping stay limits for public lands administered by the BLM in the Moab District, Utah.

SUMMARY: Notice is given that person(s) may occupy a site or multiple sites within a ten (10) mile radius on public lands not closed or otherwise restricted to camping within the Moab District for a total period of not more than fourteen (14) days during any twenty-eight (28) day period. Following the fourteen (14) day period, persons may not relocate within a distance of ten (10) miles of the site that was just previously occupied until completion of the twenty-eight (28) day period. The fourteen (14) day limit may be reached either through a number of separate visits or through a period of continuous occupation of a site. Under special circumstances and upon request, the authorized officer may give written permission for extension of the fourteen (14) day limit.

Additionally, no person may leave personal property unattended in designated campgrounds, recreation developments or elsewhere on public lands within the Moab District for a period of more than forty-eight (48) hours without written permission from the authorized officer.

This camping stay limit does not apply to Long Term Visitor Use Areas which may be so designated in the future by the Moab District.

DATE: This camping stay limit will be effective October 1, 1988.

SUPPLEMENTARY INFORMATION: This camping stay limit is being established in order to assist the Bureau in reducing the incidence of long-term occupancy trespass being conducted under the guise of camping on public lands within the Moab District. Of equal importance is the problem of long-term camping, which precludes equal opportunities for other members of the public to camp in the same area, which creates user conflicts.

Authority for this stay limit is contained in CFR Title 43, Chapter II, Part 8360, Subpart 8364.1, Subpart 8365, Subpart 8365.1-2, 8365.1-6, and 8365.2-3.

8360.0-7 PENALTIES: Violations of any regulations in this part by a member of the public, except for the provisions of 8365.1-7, are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by 8365.1-6 are punishable in the same manner.

FOR FURTHER INFORMATION: Additional information concerning this camping stay limit for public lands administered by the BLM in the Moab District, Utah may be obtained from Brad Groesbeck, District Realty Specialist or from Russell von Koch, District Outdoor Recreation Planner, Moab District Office, 82 East Dogwood, P. O. Box 970, Moab, Utah 84532, (801) 259-6111.

Date: September 22, 1988.

Kenneth V. Rhea,

Acting District Manager.

[FR Doc. 88-22475 Filed 9-29-88; 8:45 am]

BILLING CODE 4310-DQ-M

[WY-040-08-4400-90]

Intent to Prepare Resource Management Plan for Green River

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare a Resource Management Plan and Call for Coal and Other Resource Information for the Bureau of Land Management (BLM) Green River Resource Area, Rock Springs District, Wyoming.

SUMMARY: The BLM Rock Springs District is initiating development of a resource management plan (RMP) to guide future management actions on the public lands within the Green River Resource Area. The RMP is the first such land use plan under the new BLM planning regulations for the resource area. Existing management framework plans (MFPs) will continue to guide decisions for the Green River Resource Area until the RMP is completed.

The RMP will be a comprehensive land use plan that will allocate and identify allowable public land and resource uses, levels of production that can be attained, resource condition management goals, land and resource/use constraints, and general management practices needed to achieve RMP objectives. It will identify lands available for consideration for transfer from BLM administration (via public disposition or transfer to another agency).

Requirements, standards, and procedures for preparing this RMP are contained in 43 CFR 1600-1610 and BLM Manuals 1600-1631.

The BLM Washington Office will provide further guidance on standards for development of RMPs nationwide. The BLM Wyoming State Office will continue to develop guidance for RMP planning for the four districts in the State of Wyoming to guide BLM managers in producing balanced land use decisions that meet requirements of law and regulation. The Rock Springs District will develop planning criteria to provide the public a preview of the types of considerations that will be made in developing the RMP decisions.

DATES: The issue identification, planning criteria development, and inventory phases of the RMP process begin in September 1988. The RMP is scheduled to be completed by the fall of 1991. Public meetings and other public involvement activities during the planning process, will be announced through the **Federal Register**, local news media, and public mailings.

ADDRESS: Documentation of the RMP process and completed documents will be available at: Green River Resource Area, P.O. Box 1170, Rock Springs, Wyoming 82902-1170.

FOR FURTHER INFORMATION CONTACT: If you wish to be placed on the RMP mailing list, or if you wish to add to the list of public land and resource problems, conflicts, concerns, or issues being considered in the RMP, contact Bill LeBarron, Green River Resource Area Manager, at the address above or phone (307) 362-6422.

SUPPLEMENTARY INFORMATION: The Green River Resource Area is located in southwestern Wyoming.

The resource area includes approximately 3,628,380 surface acres and 3,856,186 acres of Federal mineral estate administered by the BLM in Sweetwater, Uinta, Lincoln, Sublette, and Fremont counties. There are 12 wilderness study areas (WSAs) in the resource area: Buffalo Hump, Sand Dunes, Alkali Draw, South Pinnacles, Alkali Basin-East Sand Dunes, Red Lake, Honeycomb Buttes, Oregon Buttes, Whitehorse Creek, Devils Playground-Twin Buttes, Red Creek Badlands, and Adobe Town. These have been addressed in separate MFP/EIS documents; therefore, wilderness will not be addressed in the Green River RMP/EIS.

There are seven designated Areas of Critical Environmental Concern

(ACECs) within the Green River Resource Area (Cedar Canyon ACEC, Greater Sand Dunes ACEC, Natural Corrals ACEC, Oregon Buttes ACEC, Pine Spring ACEC, Red Creek Watershed ACEC, and White Mountain Petroglyphs ACEC). The RMP/EIS should not alter the designation of these ACECs; however, management prescriptions for these areas will be addressed and could change. The potential for additional ACECs will be explored, and if any are nominated for ACEC designation, they will be described and analyzed in the RMP/EIS process.

Public participation will be an essential component of RMP development. Several techniques for public involvement will be used at each phase of RMP development including: Federal Register announcements, on-to-one discussion with key groups and individuals interested in the Green River Resource Area (especially public officials), and individual mailings to all parties who have expressed an interest in the process.

For those persons wishing to be placed on this mailing list, a BLM contact is provided elsewhere in this notice. Public meetings will only be called as needed or requested. At the outset, BLM invites public identification of the issues that should be addressed in the RMP process. Comments may be sent to the address listed previously. Preliminary issues that have been identified to date include:

Issue 1: Management of Vegetative Resources. There are conflicting demands for use of vegetative resources in the Green River Resource Area. The basic issue is providing for various types and levels of resource values and uses such as watershed protection, wildlife habitat, identification and evaluation of potential black-footed ferret habitat, vegetation maintenance, soil stabilization, water quality, riparian and wetland habitat, livestock grazing, wild horse use, timber harvest, ORV use, and surface-disturbing activities.

Issue 2: Management of the Bureau of Reclamation Withdrawal in Eden-Farson. There is a proposal by the Bureau of Reclamation to return to BLM administration about 26,916 acres in the Eden-Farson area. Management of both the surface and mineral resources would then be administered by the BLM.

Issue 3: Minerals Resource Management and Rights-of-Way. Special attention is needed to address mineral development and transportation network conflicts with other land and resource uses and values, particularly in areas with high mineral development potential. Principal considerations include: elk, moose, mule deer, antelope, and fisheries habitat; recreation values; forage uses; air quality; and watershed protection.

Areas that are suitable, not suitable (particularly No Surface Occupancy areas), or restricted for development activity must be identified.

Issue 4: Recreation, Paleontological, Cultural, and Historical Resource Management. There are certain resources that need protection while others need consideration for public use and recreation. ORV use can conflict with other resources, including wildlife values (particularly deer, elk, and antelope winter ranges) and watershed values. Principal considerations include providing suitable and sufficient recreation use and facilities, (both dispersed and commercial), visual resource management direction, off-road vehicle (ORV) designations, management of paleontological resources, and management of cultural and historical resources.

Issue 5: Special Management Areas. There are areas, values or resources in the Green River Resource Area that meet the criteria for protection and management under special management designations. There are also seven ACECs already designated that contain unique resources that need special management or attention.

Issue 6: Soil, Water, and Air Management. There is a concern over surface-disturbing activities and industrial development (particularly grazing, mineral development, recreation use and off-road vehicle use) which may be directly or indirectly affecting ground and surface water quality supplies and air quality in the Green River Resource Area. Another concern is to minimize the introduction of saline salts into the Colorado River system from both point and non-point sources on public lands within the Green River Resource Area.

Issue 7: Land Tenure Adjustment and Resource Accessibility. There are some areas in the Green River Resource Area that are isolated and difficualt to access. Land disposals, land acquisitions, and easement acquisitions could provide improved access and manageability of public lands.

Issue 8: Fire Management. There is concern over how fire should be managed in the Green River Resource Area. Areas or resources that are adversely affected or that benefit from wildfire and prescribed fire need to be identified.

Members of the public are invited to participate in the RMP process. This is particularly important during key phases such as issue identification, development of planning criteria, and draft and final RMP/EIS review, where their comments could affect the outcome of RMP decisions. Members of the public who wish to be involved in developing this RMP should contact the Green River Resource Area office at the previously listed address to be placed on the RMP mailing list.

An interdisciplinary team has been formed to develop the RMP. Disciplines represented include geology, range conservation, wildlife biology, hydrology, recreation, forestry, lands, minerals, soils, air quality, and archeology.

The BLM is requesting the public to help identify additional problems and conflicts and resource management opportunities that should also be addressed in the planning process.

This notice includes a request for any available resource information and data pertaining to the Green River Resource Area. The purposes of this request are (1) to assure the Environmental Impact Statement (EIS) and subsequent RMP cover the fullest possible range of consideration for resource and land uses and management alternatives and (2) to include the Call for Coal Resource Information required by 43 CFR 3420.1–2. To assure the RMP/EIS covers the fullest possible range of resource considerations, this call is issued to obtain any available coal resource information, any other resource information pertinent to applying unsuitability criteria, and to identify any additional areas of interest for possible Federal coal leasing. Coal resource information submittals will assist the Bureau to determine, through the RMP process, those areas with development potential for coal. Areas with coal resources will be screened to determine which areas should be available for futher consideration for leasing.

The BLM is not able to conduct additional coal or other resource inventories in the planning area. Parties interested in Federal coal leasing and development will be expected to provide coal resource data for their areas of interest. The planning schedule for this RMP/EIS requires that areas of interest and coal resource data must be submitted by December 30, 1988 to the address listed previously.

If coal resource data is insufficient or unavailable for your areas of interest, but can be obtained in 1989, the Bureau will accept until December 30, 1988, an estimate of the extent and location of the coal resources and a schedule for obtaining the data. The adequacy and timing of the coal resource information received will determine the extent to

which the Federal coal resource and its development potential may be addressed in this RMP/EIS.

Some of the Green River Resource Area is within the formerly designated Green River-Hams Fork Federal Coal Production Region. A Notice that the coal region was decertified was published in the **Federal Register**, Vol. 53, No. 77, April 21, 1988. Federal coal leasing regulations contained in 43 CFR 3425 are now in effect and coal reserves in the Green River Resource Area are now open to leasing by application. This type of coal leasing is essentially done on a case-by-case basis rather than through the regional leasing process under 43 CFR 3420. (Note that the sale and issuance of federal coal leases under these provisions is still done through a competitive bidding process.)

The Bureau will consider applications for federal coal leasing in the Green River Resource Area. Identification at this time of definite interests in future leasing, substantiated with adequate coal resource data, will allow addressing this potential in this plan and possibly avoid unnecessary work, delays, or revisions to the plan.

F. William Eikenberry,

Associate State Director.

[FR Doc. 88-22471 Filed 9-29-88; 8:45 am]

BILLING CODE 4310-22-M

[MT-060-88-4410-08]

Resource Management Planning Activity in the Judith, Valley, and Phillips Resource Areas, Lewistown District, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A Resource Management Plan (RMP) will be prepared for the BLM-administered lands within the Judith, Valley, and Phillips Resource Areas, Lewistown District, Montana. The RMP will be based upon the existing statutory requirements and will meet the requirements of the Federal Land Policy and Management Act of 1976. The RMP and accompanying Environmental Impact Statement (EIS) will guide management decisions within the Judith, Valley, and Phillips Resource Areas. The RMP and EIS are scheduled for completion by July 15, 1990.

SUPPLEMENTARY INFORMATION: The RMP geographic area is in north-central Montana and consists of BLM-administered lands in Valley, Phillips, Fergus, Petroleum, and Judith Basin Counties, and the southern half of Chouteau County.

The issues (problems, concerns) to be addressed in this plan include: acquisition of lands with important resource values, access to public lands, off-road vehicle use, identifying areas of special management concerns, rights-of-way, withdrawal review, forage allocation, riparian and wetlands management, land treatment, fire management, oil and gas leasing and development, coal development, hardrock mineral exploration and development, prairie dog management, black-footed ferret recovery, and wildlife expansion and reintroduction.

Four alternatives will be developed to present a range of feasible management actions. The "No Action Alternative" is included in accordance with 43 CFR 1502.14(d) and represents the continuation of current management. The "Resource Production Alternative" favors the use and development of public land resources over extensive natural and cultural resource protection. The "Resource Protection Alternative" goes beyond legal mandates of resource protection, allowing the protection of natural and cultural resources to dictate other allowable uses. Management under the "Resource Production-Protection" alternative would balance use of the public land resources with protection of valuable and/or sensitive natural and cultural resources.

Development of this RMP will require involvement of professionals from these disciplines: Wildlife management, hydrology, soil science, range management, realty, forestry, geology, archaeology, recreation, economics, and sociology.

The public will be provided opportunity to review and comment on issues developed by BLM and to identify new issues. A mailing list is being developed and will be used to communicate with and solicit comments from all local, state and Federal agencies, Native American Tribes, the Lewistown BLM District Advisory Council, the Lewistown BLM Grazing Advisory Board, and the public at large which may be affected by the plan. As the planning process proceeds, these publics will be invited to participate through workshops, open houses, and public meetings.

Public information and scoping meetings for this RMP will be held at:

Glasgow, MT, Elks Club, November 14, 1988, 7 p.m.;

Malta, MT, VFW Hall, November 15, 1988, 7 p.m.;

Winifred, MT, High School, November 16, 1988, 7 p.m.;

Winnett, MT, Courthouse, November 17, 1988, 7 p.m.; and

Lewistown, MT, BLM Office, November 21, 1988, 7 p.m.

FOR FURTHER INFORMATION CONTACT: Area Manager, Judith Resource Area, Airport Road, Lewistown, Montana 59457; Area Manager, Valley Resource Area, Route 1, Box 775, Glasgow, Montana 59230; or Area Manager, Phillips Resource Area, 501 S. 2nd Street East, Malta, Montana 59538.

September 16, 1988.

Marvin LeNoue,

State Director.

[FR Doc. 88-21613 Filed 9-29-88; 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

[FES 88-35]

Availability of Final Supplemental Environmental Impact Statement; Alaska Peninsula National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a final supplemental environmental impact statement for the wilderness proposal of the final comprehensive conservation plan/environmental impact statement/wilderness review for the Alaska Peninsula National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared a Final Supplemental Environmental Impact Statement (Final Supplemental Statement) for the Wilderness Proposal of the Final Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review for the Alaska Peninsula National Wildlife Refuge, Alaska, pursuant to section 3(d) of the Wilderness Act of 1964, section 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act), and section 102(2)(C) of the National Environmental Policy Act of 1969. The Final Supplemental Statement analyzes the impacts of four alternative wilderness proposals for the Alaska Peninsula National Wildlife Refuge.

The preparation of this Final Statement differs from the past procedures of reprinting revised versions of entire draft documents. instead, this Final Statement includes only those changes that are necessary in the Draft statement and responses to public comments. The enclosed document, used with the Draft

Statement distributed to the public on July 15, 1988, constitutes the Final Environmental Impact Statement.

DATE: A Record of Decision will be discussed no sooner than October 31, 1988.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503–6199; telephone (907) 786–3399.

SUPPLEMENTARY INFORMATION: Copies of the Final Supplemental Statement will be sent to all agencies, organizations, and persons who commented on the Draft Supplemental Statement and to all parties on the Alaska Peninsula Refuge planning mailing list. A limited number of copies of the Final Statement may be obtained by contacting Mr. Knauer.

Copies of the Final Supplemental Environmental Impact Statement are also available for review at the Office of the Regional Director, address as listed previously, as well as at the office of the Alaska Peninsula National Wildlife Refuge, King Salmon, Alaska, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuges, Main Interior Bldg., 18th and C Streets NW., Washington, DC 20240;
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street, Suite 1692, Portland, OR 97232;
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW., Albuquerque, NM 87103;
U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111;
U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Building, 75 Spring Street SW., Atlanta, GA 30303;
U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, MA 02158; and
U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225.

Date: September 21, 1988.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 88–22083 Filed 9–29–88; 8:45 am]

BILLING CODE 4310–55–M

[FES 88–34]

Availability of Final Supplemental Environmental Impact Statement Becharof National Wildlife Refuge, OK

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a final supplemental environmental impact statement for the wilderness proposal of the final comprehensive conservation plan/environmental impact statement/wilderness review for the Becharof National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared a Final Supplemental Environmental Impact Statement for the Wilderness Proposal of the Final Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review for the Becharof National Wildlife Refuge, Alaska, pursuant to section 3(d) of the Wilderness Act of 1964, section 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act), and section 102(2)(C) of the National Environmental Policy Act of 1969. The Final Supplemental Statement analyzes the impacts of three alternative wilderness proposals for the Becharof National Wildlife Refuge.

The preparation of this Final Statement differs from past procedures of reprinting revised versions of entire draft documents. Instead, this Final Statement includes only those changes that are necessary in the Draft Statement and responses to public comments. The enclosed document, used with the Draft Statement distributed to the public on June 29, 1988, constitutes the Final Environmental Impact Statement.

DATE: A Record of Decision will be issued no sooner than October 31, 1988.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503–6199; telephone (907) 768–3399.

SUPPLEMENTARY INFORMATION: Copies of the Final Supplemental Statement will be sent to all agencies, organizations, and persons who commented on the Draft Supplemental Statement and to all parties on the Becharof Refuge planning mailing list. A limited number of copies of the Final Statement may be obtained by contacting Mr. Knauer.

Copies of the Final Supplemental Environmental Impact Statment are also available for review at the Office of the Regional Director, address as listed previously, as well as the office of the Becharof National Wildlife Refuge, King Salmon, Alaska, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuges, Main Interior Bldg., 18th and C Streets NW., Washington, DC 20240;
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street, Suite 1692, Portland, OR 97232;
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW., Albuquerque, NM 87103;
U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111;
U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Building, 75 Spring Street SW., Atlanta, GA 30303;
U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, MA 02158; and
U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Boulevard, Lakewood, CO 80225.

Date: September 21, 1988.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 88–22084 Filed 9–29–88; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Brooklyn Union Exploration Co., Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Brooklyn Union Exploration Company, Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 8690, Block 253, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducterd from an existing onshore base located at Freshwater City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 23, 1988. Comments must be received within 15 days of the publication date of this notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building,

625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: September 23, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88–22474 Filed 9–29–88; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Availability; Proposed Notice of Sale Central Gulf of Mexico Oil and Gas Lease Sale 118

Gulf of Mexico Outer Continental Shelf; Notice of Availability of Proposed Notice of Sale, Central Gulf of Mexico, Oil and Gas Lease Sale 118.

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale.

The proposed Notice of Sale for Sale 118, Central Gulf of Mexico, may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or by telephone (504) 736–2519.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is scheduled for March 1989.

This Notice of Availability is hereby published pursuant to 30 CFR 256.29 as a matter of information to the public.

Dated: September 21, 1988.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 88–22495 Filed 9–29–88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

[FES–88–40]

Final Environmental Impact Statement, Wilderness Recommendation for Cape Krusenstern National Monument, Alaska

ACTION: Notice of Availability of the Final Environmental Impact Statement for the Wilderness Recommendation Cape Krusenstern National Monument, Alaska.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service has prepared a final environmental impact statement (EIS) relating to the wilderness recommendation for Cape Krusenstern National Preserve, Alaska.

SUPPLEMENTARY INFORMATION: Single copies of the final EIS may be obtained from the Regional Director, Alaska Region, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, Alaska 99503, Attention: Division of Planning. Copies may also be requested by Telephone: (907) 257–2654.

Copies of the final EIS will also be available for public reading and inspection at the Alaska Regional Office, address above; at the Office of the Superintendent, Cape Krusenstern National Preserve Headquarters at P.O. Box 1029, Kotzebue, Alaska 99752, Phone (907) 442–3890; at the Alaska Public Lands Information Office in Fairbanks, Alaska, 3rd and Cushman Streets; at the Alaska Resources Library in Anchorage, Alaska, 701 C Street; and at the Office of Public Affairs, National Park Service, United States Department of the Interior in Washington, DC 18th and C Streets, NW.

Gerald D. Patten

Associate Director, Planning and Development.

Approved.

Bruce Blanchard,

Director, Office of Environmental Project Review, United States Department of the Interior.

[FR Doc. 88–22462 Filed 9–29–88; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency For International Development

Meeting; Research Advisory Committee

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on October 24–25, 1988 in Conference Room 'B' of the Pan American Health Organization Building, 525 Twenty-Third Street NW., Washington, DC. Topics for discussion will be "Urban Development Research" and "Management and Finance Research in Basic Education in Developing Countries".

The meeting will begin at 9:00 a.m. on both days and adjourn at 5:00 p.m. on October 24 and 12:00 noon on October 25. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent time available for the meeting permits. Dr. Curtis R. Jackson, Director, Office of Research and University Relations, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. Persons desiring more specific information should contact Dr. Jackson at (703) 875–4005 or Room 309, 1601 North Kent Street, Rosslyn, Virginia.

Curtis R. Jackson,

A.I.D. Representative, Research Advisory Committee.

Date: September 22, 1988.

[FR Doc. 88–22428 Filed 9–29–88; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31316]

The Huron and Eastern Railway Co., Inc.; Acquisition; CSX Transportation, Inc. Line Between Bad Axe and Saginaw, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision accepting application for consideration.

SUMMARY: The Commission is accepting for consideration the application, filed August 30, 1988, by The Huron and Eastern Railway Company, Inc. to acquire CSX Transportation, Inc.'s 58.47-mile line of railroad between Bad Axe and Saginaw, MI. Pursuant to 49 CFR Part 1180, the Commission finds this to be a minor transaction.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than October 31, 1988. Written comments from the Secretary of Transportation and Attorney General of the United States must be filed by November 14, 1988. Applicants' reply is due December 5, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 (TDD for hearing impaired: (202) 275–1721)).

ADDRESSES: An original and 10 copies of all documents must be sent to: Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 31316, Interstate Commerce Commission, Washington, DC 20423.

In addition, one copy of all documents in this proceeding must be sent to each of applicants' representatives: Lawrence H. Richmond, CSX Transportation, Inc., 100 North Charles Street, Baltimore, MD 21201 and Eric D. Gerst, The Huron and Eastern Railway Company, Inc., Suite 900 Philadelphia Bourse, 21 South Fifth Street, Philadelphia, PA 19106.

SUPPLEMENTAL INFORMATION:

On August 30, 1988, The Huron and Eastern Railway Company, Inc. (H&E) and CSX Transportation, Inc. (CSXT), collectively referred to as applicants, filed an application seeking Commission approvel and authorization, prsuant to 49 U.S.C. 11343, *et seq.*, of H&E's acquisition of a 58.47-mile CSXT line between Bad Axe and Saginaw, MI. Applicants contend that the subject acquisition transaction is a minor transaction under 49 CFR 1180.2(c) and submit an application containing information in accordance with the railroad consolidation regulations at 49 CFR Part 1180 for minor transactions.

H&E is a Class III common carrier, and is controlled by a non-carrier, Huron Transportation Group. CSXT is a Class I common carrier, and is a unit of CSX Corporation. H&E currently has 82.5 miles of line, with its main line extending between Croswell and Bad Axe in Sanilic and Huron Counties, MI, with branches to Sandusky, Kinde, and Harbour Beach. H&E presently connects with and interchanges traffic with CSXT at Bad Axe, MI and does not connect with any other rail carrier nor does it transport any overhead traffic. Applicants state that the proposed transaction will relieve CSXT of the inherent inefficiencies of a branch line operation while extending H&E's existing operation, thereby spreading H&E's operating costs over a larger revenue base. As a result, they allege that both carriers will realize operating efficiencies. Presently, all of the patrons located on the line are served directly only by CSXT and not by any other railroad, and CSXT and H&E do not compete for originating and terminating freight traffic on the line. Consequently, applicants contend that, unlike a railroad consolidation, the proposed transaction will not result in the loss of competitive rail service to patrons served by the carriers involved in this transaction, but rather the transaction will dilute CSXT's existing market power in the line's area. Applicants further state that CSXT's patrons presently enjoy substantial intermodal competition and that the proposed transaction should enable the rail mode to compete more effectively with other modes of surface transportation by providing all of the rail patrons between Saginaw and Croswell, MI with single system rail service. H&E plans to integrate the line into its existing operations, so the proposed transaction should have no adverse effect on H&E employees. CSXT intends to commence negotiation of appropriate agreements with its employees who may be adversely affected by this transaction, pursuant to the provisions set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd sub nom. New York Dock Railway* v. *United States*, 609 F.2d 83 (2d Cir. 1979). When H&E's operation eventually requires additional employees, H&E states that it will offer employment on a preferential basis to CSXT employees who worked on the line.

Under the consolidation regulations we must initially determine whether a proposal is major, significant, minor or exempt. The proposed transaction involves a Class I and Class III railroad. It has no regional or national significance and will neither result in any major market extension nor reduce the present level of competition. Accordingly, we find that the proposal is a minor transaction under 49 CFR 1180.2(c) and, because the application complies with the applicable regulations, we are accepting it for consideration.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Any interested persons, including government parties, may participate in this proceeding by submitting written comments regarding the application. Comments must be filed no later than October 31, 1988. The Secretary of Transportation and Attorney General of the United States must file their comments no later than November 14, 1988. An original and 10 copies must be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Written comments must be concurrently served by first-class mail on the United States Secretary of Transportation, the Attorney General of the United States, and the applicants' representatives. Written comments must also be served on all parties of record within 10 days of service of the service list by the Commission. We plan to issue the service list by November 14, 1988. Any person who files timely written comments shall be considered a party of record if the person's comments so request. In this event, no petition for leave to intervene need be filed. Written comments must contain (49 CFR 1180.4(d)(1)(iii)):

(A) the docket number and title of the proceeding;

(B) the name, address, and telephone number of the commenting party and its represenatative upon whom service shall be made;

(C) the commenting party's position, *i.e.*, whether it supports or opposes the proposed tranaction;

(D) a statement of whether the commenting party intends to participate formally in the proceeding or merely comment upon the proposal;

(E) if desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can only be resolved at a hearing; and

(F) a list of all information sought to be discovered from applicant carriers.

Because we have determined that the proposal in this proceeding constitutes a minor transaction, no responsive applications will be permitted. The time limits for processing a minor transaction are set forth at 49 U.S.C. 11345(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters amicably.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. This proposal is found to be a minor transaction under 49 CFR 1180.2(c).

2. The application in Finance Docket No. 31316 is accepted for consideration.

3. The parties shall comply with all provisions as stated above.

4. This decision is effective on the date of service.

Decided: September 23, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-22481 Filed 9-29-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-290 (Sub-No. 33X)]

Southern Railway Co.; Abandonment Exemption; In Anderson County, TN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Southern Railway Company of 1.71 miles of rail line in Anderson County, TN, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 31, 1988. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by October 11, 1988, petitions to stay must be filed by October 17, 1988, and petitions for reconsideration must be filed by October 25, 1988. Requests for a public use condition must be filed by October 11, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB-290 (Sub-No. 33X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Roger A. Petersen, Solicitor, Norfolk Southern Corporation, One Commercial Place, Norfolk, VA 23510-2191.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359, (assistance for the hearing impaired is available through TDD service (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: September 23, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-22479 Filed 9-29-88; 8:45 am]

BILLING CODE 7035-01-M

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[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Du Pont Pharmaceuticals

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 15, 1988, Du Pont Pharmaceuticals, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Hydrocodone (9193)	II
Oxycodone (9143)	II
Oxymorphone (9652)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than [October 31, 1988.].

Dated: September 26, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 88-22531 Filed 9-29-88; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances Application; Eli Lilly & Co.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 22, 1988, Eli Lilly and Co., 1249 South White River Parkway, Building 80, Indianapolis, Indiana 46285, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance nabilone (7379).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form precribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than October 31, 1988.

Dated: September 26, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 88-22532 Filed 9-29-88; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances Application; Eli Lilly Industries, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 8, 1988, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00708, made application to the Drug Enforcement Administration (DEA) for registration as

a bulk manufacturer of the Schedule II controlled substance bulk dextropropoxyphene (9273).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than October 31, 1988.

Dated: September 26, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 88-22533 Filed 9-29-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinatioins Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to seubmit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washingotn, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Kentucky:
- KY88-25 (Jan. 8, 1988) ..... pp. 356, 359.
- KY88-26 (Jan. 8, 1988) ..... p. 362.
- KY88-27 (Jan. 8, 1988) ..... pp. 366-367.
- KY88-28 (Jan. 8, 1988) ..... pp. 372, 374.

PENNSYLVANIA: .....
- PA88-4 (Jan. 8, 1988) ..... p. 870

VIRGINIA:I02VA88-3 (Jan. 8, 1988). p. 1124.

Volume II

Illinois:
- IL88-1 (Jan. 8, 1988) ..... p. 73.
- IL88-8 (Jan. 8, 1988) ..... pp. 143-144.
- IL88-9 (Jan. 8, 1988) ..... pp. 148-149.
- IL88-11 (Jan. 8, 1988) ..... p. 159.
- WI88-2 (Jan. 8, 1988) ..... p. 1088.
- WI88-3 (Jan. 8, 1988) ..... p. 1092.
- WI88-5 (Jan. 8, 1988) ..... p. 1100.
- WI88-6 (Jan. 8, 1988) ..... p. 1104.
- WI88-7 (Jan. 8, 1988) ..... p. 1108.
- WI88-8 (Jan. 8, 1988) ..... pp. 1112-1113.
- WI88-9 (Jan. 8, 1988) ..... pp. 1130-1131.
- WI88-11 (Jan. 8, 1988) ..... p. 1146.
- WI88-13 (Jan. 8, 1988) ..... pp. 1154-1156.
- WI88-15 (Jan. 8, 1988) ..... p. 1162.
- WI88-16 (Jan. 8, 1988) ..... p. 1166.

Volume III

None.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughtout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington DC this 23rd Day of September 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88-22250 Filed 9-29-88; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting; Theater Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Challenge II/ Advancement Section) to the National Council on the Arts will be held on October 17-19, 1988, from 9:00 a.m.-6:00 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endownment for the Arts, Washington, DC 20506, or call (202) 682-5433.

September 26, 1988.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endownment for the Arts.

[FR Doc. 88-22429 Filed 9-29-88; 8:45 am]

BILLING CODE 7537-01-M

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before October 31, 1988.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-786-0233) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202) 789-0233 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Panel Comment Sheet.

Form Number: Not applicable.

Frequency of Collection: Once per year per respondent.

Respondents: Scholars in the fields of the humanities or areas related to applications received by the Division of Research Programs. Scholars, academic administrators, publishers, archivists, or librarians.

Use: To evaluate the quality and relative merit of applicants for funding.

Estimated Number of Respondents: 193 per year, each evaluating 20-40 applications.

Frequency of Response: Forms completed 6-8 weeks before panel meeting date and during meeting.

Estimated Hours for Respondents to Provide Information: 11,580 hours annually; 40-72 hours per respondent to evaluate 20-40 applications, including panel discussion time.

Estimated Total Annual Reporting and Recording Burden: 11,580.

Title: Reviewer Comment Sheet.

Form Number: Not applicable.

Frequency of Collection: 1-4 instances annually per respondent.

Respondents: Specialists in the fields of the humanities or areas related to applications received by the Division of Research Programs.

Use: To record specialist reviewers' evaluations of applications for funding.

Estimated Number of Respondents: 5,455 per year.

Frequency of Response: Approximately 1.1 responses per respondent per year. The majority of respondents receive only one application to review per year; however, a single reviewer could receive up to 4 applications in a year.

Estimated Hours for Respondents to Provide Information: 12,000 annually; 2.2 hours per respondent.

Estimated Total Annual Reporting and Recording Burden: 12,000.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 88-22497 Filed 9-29-88; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-528, STN 50-529 and STN 50-530]

Arizona Public Service Co., et al., Palo Verde Nuclear Generating Station, Units 1, 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Arizona Public Service Company, et al [1], (the licensees) for the Palo Verde Nuclear Generating Station, Units 1, 2 and 3, located at the licensees' site in Maricopa County, Arizona.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage issuance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance

[1] The licensees are Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power and Southern California Public Power Authority.

proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensees shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is available and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensees will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources and during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed examination.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona.

Dated at Rockville, Maryland, this 26th day of September, 1988.

For the Nuclear Regulatory Commission.

Harry Rood,

Acting Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22520 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Arkansas Power & Light Company (the licensee) for the Arkansas Nuclear One, Units 1 and 2, located at the licensees's site in Pope County, Arkansas.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such

rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensees will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Tomlinson Library, Arkansas Technical University, Russellville, Arkansas 72801.

Dated at Rockville, Maryland, this 26th day of September 1988.

For The Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–22510 Filed 9–29–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–440]

The Cleveland Electric Illuminating Co., et al., Perry Nuclear Power Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to The Cleveland Electric Illuminating Company, Dusquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company (the licensees) for the Perry Nuclear Power Plant, Unit 1 located at the licensees' site in Lake County, Ohio.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of Section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that

provides a significant financial cushion to licensees to decontaminate and clear up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Kenneth E. Perkins,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22501 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-456 and 50-457]

Commonwealth Edison Co., Braidwood Nuclear Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Commonwealth Edison Company (the licensee) for the Braidwood Power Station, Units 1 and 2 located at the licensee's site in Will County, Illinois.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impact of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Wilmington Township Public Library, 201 2. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–22502 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Commonwealth Edison Company (the licensee) for the Zion Nuclear Power Station, Units 1 and 2 located at the licensee's site in Lake County, Illinois.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.054(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impact of the Proposed Action

With respect to radiological impact on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological on nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant, operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Waukegan Public Library, 128 N. County Street, Waukegen, Illinois 60085.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–22504 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-254 and 50-265]

Commonwealth Edison Co., Quad Cities Nuclear Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Commonwealth Edison Company (the licensee) for the Quad Cities Nuclear Power Station, Units 1 and 2 located at the licensee's site in Rock Island County, Illinois.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of Section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22503 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-454 and 50-455]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Commonwealth Edison Company (the licensee) for the Byron Power Station, Units 1 and 2 located at the licensee's site in Ogle County, Illinois.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite

a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22511 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

Commonwealth Edison Co.; Environmental Assessment and Finding Of No Significant Impact

[Docket Nos. 50-237 and 50-249]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Commonwealth Edison Company (the licensee) for the Dresden Nuclear Power Station, Units 2 and 3 located at the licensee's site in Grundy County, Illinois.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in

the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Streert, NW., Washington, DC, and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–22512 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–373 and 50–374]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Commonwealth Edison Company (the licensee) for the LaSalle County Station, Units 1 and 2 located at the licensee's site in LaSalle County, Illinois.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the

proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Library of Illinois, Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Rockville, Maryland this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–22513 Filed 9–29–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–461]

Illinois Power Co., et al.; Environmental Assessment And Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Illinois Power Company (IP), Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc., (the licensees) for the Clinton Power Station, Unit 1, located at the licensee's site in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Vespasian Warner, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 26th day of September 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–22505 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–458]

Gulf States Utilities, River Bend Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Gulf States Utilities (the licensee) for the River Bend Station, Unit 1, located at the licensee's site in West Feliciana Parish, Louisiana.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–22521 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–498]

Houston Lighting & Power Co., South Texas Project, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Houston Lighting & Power Company (the licensee) for the South Texas Prodject, Unit 1, located at the licensee's site in Matagorda County, Texas.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and

provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, dispite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). Howerver, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated ruelmaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding the delaying for a reasonable time the implementation of the stabilization and decontaminstion priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The propsed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

The action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate-IV, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22522 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Iowa Electric Light and Power Company, Central Iowa Power Cooperative and Corn Belt Power Cooperative (the licensees) for the Duane Arnold Energy Center, located at the licensees' site in Linn County, Iowa.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In resonse to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, becasue it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1,

1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4)

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trrusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Dated at Rockville, Maryland, this 26th day of September 1988.

For The Nuclear Regulatory Commission.

Kenneth E. Perkins,

Director, Project Directorate III-3, Division of Reactor Projects-III, IV, V and Special Projects.

[FR Doc. 88-22523 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-382]

Louisiana Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Louisiana Power & Light Company (the licensee) for the Waterford Steam Electric Station, Unit 3, located at the licensee's site in St. Charles Parish, Louisiana.

Environmental assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September, 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate

and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of no Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Dated at Rockville, Maryland this 26th day of September 1988.

For The Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–22524 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–382]

Louisiana Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–38 to the Louisiana Power & Light Company (LP&L or the licensee), for the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

Environmental assessment

Identification of Proposed Action

The proposed amendment would revise the provision in the Technical Specifications (TS) relating to fuel enrichment.

The proposed action is in accordance with the licensee's application dated July 18, 1988; previous submittals dated June 24, August 4, September 2, 1986; and with license amendment No. 7 issued to the licensee by NRC letter dated October 16, 1986.

The Need for the Proposed Action

The proposed changes are needed so that the licensee can use higher enrichment fuel and provides the flexibility of extending the fuel irradiation and permitting operation of longer fuel cycles.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the Technical Specifications. The significant portions of the review were previously documented in the Safety Evaluation supporting license amendment No. 7 issued October 16, 1986. The proposed revision would permit use of fuel enriched with Uranium 235 in excess of 4 weight percent and up to 4.1 weight percent and the license would expect the fuel to be irradiated to levels above 30 gigwatt days per metric ton (GWD/MT) but not to exceed 60 GWD/MT. The safety considerations associated with reactor operation with higher enrichment and extended irradiation have been evaluated by the NRC staff. The staff has concluded taht such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. The increased burnup may slightly change the mix of fission products that might be released in the event of a serious accident but such small changes would not significantly affect the consequences of serious accidents. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is not significant increase in the allowable individual or cumulative occupational radiation exposure.

With regard to potential nonradiological impacts of reactor operation with higher enrichment and extended irradiation, the proposed changes to the TS involve systems located within the restricted area, as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact.

The environmental impacts of transportation resulting from the use of higher enrichment fuel and extended irradiation and discussed in the staff assessment entitled, "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation," dated July 7, 1988 and published in the **Federal Register** at 53 30355 (August 11, 1988); 53 FR 32322 (August 24, 1988). As indicated therein, enrichment and irradiation limits are either unchanged or may in fact be reduced from those summarized in Table S–4 as set forth in 10 CFR 51.52((c).

Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement related to the operation of the Waterford Steam Electric Station Unit 3," dated March 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based on the foregoing environmental assessment, we concluded that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated July 18, 1988 and June 25, 1986 and submittals dated August 4, 1986 and September 2, 1986, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans Louisiana 70122.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22506 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Nebraska Public Power District (the licensee) for the Cooper Nuclear Station, located at the licensee's site in Nemaha County, Nebraska.

Environmental assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i), until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 26th day of September, 1988.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22525 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District, Fort Calhoun Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Omaha Public Power District (the licensee) for the Fort Calhoun Station, Unit 1, located at the licensee's site in Washington County, Nebraska.

Environmental Assessment

Idnetification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the forgoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22526 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 50-323]

Pacific Gas and Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Pacific Gas and Electric Company (the licensee) for the Diablo Canyon Nuclear Power Plant, Units 1 and 2, located at the licensee's site in San Luis Obispo County, California.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer

nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation data specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occuring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Harry Rood,

Acting Director, Project Directorate V, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22514 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Portland General Electric Company (the licensee) for the Trojan Nuclear Plant, located at the licensee's site in Columbia County, Oregon.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking

action will permit the Commission to reconsider on its merits the trusteeship provision 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 92707.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Harry Rood,

Acting Director, Project Directorate V, Division of Reactor Projects-III, IV, V and Special Projects.

[FR Doc. 88-22515 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Company of Colorado Fort St. Vrain Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Public Service Company of Colorado (the licensee) for the Fort St. Vrain Nuclear Generating Station, located at the licensee's site in Weld County, Colorado.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirement of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than Aprill 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident

occuring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted.

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Base upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Greeley Public Library, City Complex Building, Greeley, Colorado.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–22527 Filed 9–29–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–312]

Sacramento Municipal Utility District; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Sacramento Municipal Utility District (the licensee) for the Rancho Seco Nuclear Generating Station located at the licensee's site in Sacramento County, California.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Harry Rood,

Acting Director, Project Directorate V, Division of Reactor Projects—III, IV, V, and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22516 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-206, 50-361 and 50-362]

Southern California Edison Co., et al, San Onofre Nuclear Generating Station, Units 1, 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S Nuclear Regulatory Commission (the Commission) is considering issurance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to the licensees for the San Onofre Nuclear Generating Station, Units 1, 2 and 3 located at the licensees' site in San Diego County, California. The licensees for Unit 1 are Southern California Edison Company and San Diego Gas and Electric Company. The licensees for Units 2 and 3 are Southern Califoria Edison Company, San Diego Gas and Electric Company, the City of Anaheim, California and the City of Riverside, California.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensees shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensees will still be requried to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the General Library, University of California, P.O. Box 19557, Irvine, California. State University Library, 731 S.W. Harrison Street, Portland, Oregon 92707.

Dated at Rockville, Maryland this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Harry Rood,

Acting Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22528 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259/260/296]

Tennessee Valley Authority; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to the Tennessee Valley Authority (the licensee) for the Browns Ferry Nuclear Plant, Units 1, 2 and 3, located at the licensee's site near Decatur, Alabama.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation scheduled for 18 months (53 FR 36338, September 19, 1988). However, becasue it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Athens Public Library, South Street, Athens, Alabama 35611.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Suzanne Black,

Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 88-22507 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327/328]

Tennessee Valley Authority; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to the Tennessee Valley Authority (the licensee) for the Sequoyah Units 1 and 2, located at the licensee's site in Hamilton County, Tennessee.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup

before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, dispite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding the delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

The action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregiong environmental assessment, the Commission concludes that the proposed action will not be a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commision.

Suzanne Black,

Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 88-22517 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and The Cleveland Electric Illuminating Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Toledo Edison Company and The Cleveland Electric Illumination Company (the licensees) for the Davis-Besse Nuclear Power Stations, Unit No. 1, located at the licensees' site in Ottawa County, Ohio.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that thus rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensees shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in

implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensees will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 26th day of September 1988.

Kenneth E. Perkins,

Director, Project Directorate III–3, Division of Reactor Projects–III, IV, V and Special Projects.

[FR Doc. 88–22529 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–483]

Union Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Union Electric Company (the licensee) for the Callaway Plant, Unit 1, located at the licensee's site in Callaway County, Missouri.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, depsite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is kisuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there aree several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and truseeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to

occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC., and at the Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated at Rockville, Maryland, this 26th day of September 1988.

For The Nuclear Regulatory Commission.

Kenneth E. Perkins,

Director, Project Directorate III–3, Division of Reactor Projects-III, IV, V and Special Projects.

[FR Doc. 88–22519 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–397]

Washington Public Power Supply System; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Washington Public Power Supply System (the licensee) for the Nuclear Project No. 2, located at the licensee's site in Benton County, Washington.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to pubication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occuring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at Richland City Library, Swift and Northgate Streets, Richland, Washington.

Dated at Rockville, Maryland, this 26th day of September 1988.

For The Nuclear Regulatory Commission.

Harry Rood,

Acting Director, Project Directorate V, Divison of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22518 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Wisconsin Electric Power Company (the licensee) for the Point Beach Nuclear Plants, Units 1 and 2, located at the licensee's site in Manitowoc County, Wisconsin.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for conclucing that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occuring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 26th day of September 1988.

For The Nuclear Regulatory Commission.

Kenneth E. Perkins,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22508 Filed 9-29-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Wisconsin Public Service (the licensee) for the Kewaunee Nuclear Power Plant, located at the licensee's site in Kewaunee County, Wisconsin.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited–II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

Kenneth E. Perkins,

Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–22509 Filed 9–29–88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-482]

Wolf Creek Nuclear Operating Corp., Wolf Creek Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Wolf Creek Nuclear Operating Corporation (the licensee) for the Wolf Creek Nuclear Generating Station, located at the licensee's site in Coffey County, Kansas.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the

decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited–II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 26th day of September 1988.

For the Nuclear Regulatory Commission.

David L. Wigginton,

Acting Director, Project Directorate—IV, Division of Reactor Projects–III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–22530 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold an open meeting on October 27, 1988, 8:30 a.m., Room P–422, 7920 Norfolk Avenue, Bethesda, MD. The Committee will review topics scheduled for discussion with the Commission later in the day. Following the meeting with the Commissioners the Committee may reconvene to discuss the outcome of the Commission meeting, and ACNW plans, schedules, and procedures in general.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. The Office of the ACRS is providing Staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492–8049), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Dated: September 27, 1988.

Andrew L. Bates,

Acting Advisory Committee Management Officer.

[FR Doc. 88–22493 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

Availability of Draft Technical Position on Postclosure Seals in an Unsaturated Medium

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of the "Draft Technical Position on Postclosure Seals in an Unsaturated Medium."

DATE: The comment period expires October 31, 1988.

ADDRESSES: Send comments to Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Mail Stop P–210, Washington, DC 20555.

Copies of this document may be obtained free of charge upon written request to Marlene Creviston, Project Management and Quality Assurance Branch, Division of High-Level Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop 4–H–3, Washington, DC 20555, Telephone 1/800/368–5642, Ext. 20440.

FOR FURTHER INFORMATION CONTACT: Brian Thomas, Project Manager, Project Management and Quality Assurance Branch, Division of High-Level Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301/492–0433.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission has prepared a draft version of a Technical Position (TP) on site sealing in an unsaturated medium. Previously, the NRC issued a TP entitled "Generic Technical Position on Borehole and Shaft Sealing of High-Level Nuclear Waste Repositories" (NRC, 1986) which focused mainly on issues related to repositories in saturated media. However, the Department of Energy (DOE) is currently investigating the unsaturated Yucca Mountain site for detailed characterization. Although the guidance in the existing TP is also applicable to repositories in unsaturated media, DOE's current design concepts include a combination of sealing and drainage, and the NRC staff position on this concept is not adequately discussed in the original TP. Therefore, additional guidance is needed to clarify the NRC staff position on sealing and drainage for a repository in an unsaturated medium. The purpose of this technical position is to provide guidance with respect to sealing concepts as described in recent DOE publications (Case and Kelsall, 1987; Fernandez, 1985; Fernandez and Freshley, 1984; Fernandez et al., 1987).

In general, the revised TP discusses the need to evaluate seals in an unsaturated medium. The principal design goals given in the TP include: (1) Prevention of significant amounts of surface or ground water from reaching emplaced waste; and (2) prevention of significant amounts of gaseous radionuclides from escaping through shafts, ramps, and boreholes to the accessible environment. In establishing the NRC staff positions presented in this document, the staff has recognized that large uncertainties are likely to persist in evaluating the longevity and long-term effectiveness of seals and drainage for the postclosure period. In view of these uncertainties, the staff considers it prudent to minimize the need for seals wherever feasible. These considerations suggest that the number of surface openings be limited, and their locations be selected to discourage infiltration of surface water.

This technical position provides guidance regarding design considerations for seals of shafts, ramps, boreholes, and the underground facility. It should be noted that the criteria for seals given in Part 60 of Title 10 of the Code of Federal Regulations (10 CFR Part 60) do not specifically mention seals in ramps and the underground facility. However, because the seals and drainage design in ramps and the underground facility could also affect the overall system performance of the geologic repository, it is reasonable to apply the same guidance to these seals and drainage designs.

In addition, the TP takes into account site characterization and performance confirmation testing, including the need for starting in situ seal testing during site characterization and for confirming the adequacy of seal and drainage concepts, emplacement methods, and material compatibility. In addition, this technical position emphasizes the need for considering the effects of seals and/or drainage design on meeting the overall system performance requirements.

Not explicitly addressed in the TP are the implications of potential changes in water level during the postclosure period. However, it is expected that sealing performance analyses and requirements will include adequate consideration of credible future tectonic, geologic, geomorphological, and geochemical processes and events that could affect seal performance.

Technical positions describe and make available to the public criteria for methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations or otherwise provide guidance to the DOE. Technical positions are not substitutes for regulations, and compliance with them is not required. Methods and solutions not in accordance with criteria set out in the position will be acceptable if they provide a basis for the findings requisite to the issuance or continuance of a permit or license by the Commission.

Dated at Rockville, Maryland, this 21st day of September 1988.

For the Nuclear Regulatory Commission.

John J. Linehan,

Acting Chief Project Management and Quality Assurance Branch, Division of High-Level Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 88–22500 Filed 9–29–88; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Request for OMB Extension of Approval For Collection of Information: Redetermination of Withdrawal Liability Upon Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval of extension.

SUMMARY: The Pension Benefit Guaranty Corporation has requested approval by the Office of Management and Budget for an extension of the expiration date of a currently approval collection of information (OMB No. 1212–0034) without any change in the substance or in the method of collection. The collection of information is contained in the PBGC's regulation on Redetermination of Withdrawal Liability Upon Mass Withdrawal, 29 CFR Part 2648. This notice advises the public of the PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, DC 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Paula Connelly, Attorney, Office of the General Counsel (22500), 2020 K Street NW., Washington, DC 20006; telephone 202–778–8823 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PBGC is requesting that the Office of Management and Budget extend for three years the approval of the collection of information contained in the PBGC's regulation on Redetermination of Withdrawal Liability Upon Mass Withdrawal, 29

CFR Part 2648. Section 4219(c)(1)(D) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), requires the PBGC to prescribe regulations governing the allocation to withdrawing employers of the total unfunded vested benefits of a multiemployer plan in the event of a plan termination due to the withdrawal of every employer or a withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw. This regulation prescribes those rules and includes rules for computing and assessing the liability and for notifying the PBGC and employers in the plan of the occurrence of the mass withdrawal and of the attendant liabilities.

The reporting provisions contained in the regulation require a plan to give employers timely notice of the mass withdrawal and to advise them of their rights and liabilities arising therefrom. Included in the notices to employers is the demand for payment, which initiates the employer liability assessment process and triggers an employer's rights to review of its assessment.

The notices that a plan submits to the PBGC serve to identify a plan as having experienced a mass withdrawal and include certifications that the plan has determined and assessed mass withdrawal liability. This enables the PBGC to monitor a plan's compliance with the mass withdrawal liability provisions of ERISA and the regulation. By assuring compliance with these rules, the PBGC guards against the increased risk of plan insolvency (with resulting benefit loses to participants and claims against the insurance program) caused by the mass withdrawal. If this information is not made available to PBGC, it would be significantly hindered in the performance of its statutory duties.

The only multiemployer plans subject to this regulation are those that experience a mass withdrawal and have unfunded vested benefits. Based on its experience to date, the PBGC estimates that fewer than one plan per year meets these requirements.

Each mass withdrawal subject to this regulation gives rise to the following reporting requirements: (1) Notices of mass withdrawal to the PBGC and to withdrawing employers; (2) notices of redetermination liability to liable employers; (3) notices of reallocation liability to liable employers; and (4) certifications of the liability determinations and assessments to the PBGC. (Although these reporting requirements may extend over more than one year following the occurrence of a mass withdrawal, the burden estimates below assume that all are completed within one year.)

The PBGC estimates that it takes 1 hour of professional time and 8.33 hours of clerical time to prepare and mail the notices of mass withdrawal to the PBGC and to 250 employers (the mean size of multiemloyer plans). The notices to employer of redetermination liability would require one-half hour of professional time and up to 8.33 hours of clerical time, depending on the number of liable employers (normally fewer than all). The notices or reallocation liability would require the same amount of time, and generally all employers are subject to reallocation liability. Finally, each of the two certifications to the PBGC would take one-half hour of professional time. Thus the total time expenditure per plan, and the annual burden imposed by this regulation, would be 28 hours.

Issued in Washington, DC, on this 26th day of September 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-22464 Filed 9-29-88; 8:45 am]

BILLING CODE 7708-01-M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Meeting

AGENCY: Physician Payment Review Commission.

ACTION: Notice of Public Meeting.

SUMMARY: The Physician Payment Review Commission will hold a public meeting on Thursday, October 6, 1988, from 9:00 a.m. to 3:30 p.m. and on Friday, October 7, 1988, from 8:30 a.m. to 12:15 p.m. The meeting will be held in the Federal Ballroom South of the Quality Inn, 415 New Jersey Avenue NW.

The morning session on October 6 will be devoted to reviewing the resource based relative value study by William Hsiao and the Commission's plans for evaluating the study (Dr. Hsiao is scheduled to come before the Commission at its November meeting). There will also be a review of draft questionnaires for surveys being conducted by the Commission of physicians and beneficiaries. The afternoon session will include discussion of plans for the Commission's October 11 conference on practice guidelines, policy options related to physician financial incentive arrangements, and the recent trip to Canada by several Commissioners and staff.

The meeting on October 7 will focus on several background analyses conducted as part of the Commission's work on expenditure targets. There will also be discussion of a background paper on monitoring access under a fee schedule. Finally, staff will provide the Commissioners with an update on the radiology fee schedule. There will be an opportunity for public comment at the end of each meeting day.

ADDRESS: The Commission office is located in Suite 510, 2120 L Street NW., Washington, DC. The telephone number is 202/653-7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, 202/653-7220.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 88-22498 Filed 9-29-88; 8:45 am]

BILLING CODE 6820-SE-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-26117; File No. SR-CBOE-88-15]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Market-Maker Obligations To Not Exceed Certain Bid-Ask Differentials

On July 27, 1988, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder, [2] a proposed rule change that would prohibit market makers from bidding and/or offering so as to create a bid-ask differential of more than ⅜ of $1 in options contracts priced between $1 and $5 and change from $10 to $5 the amount by which an option must be in-the-money before a market-maker is not longer obligated to maintain quotations which are within the parameters for bid-ask differentials established in CBOE Rule 8.7(b). On September 12, 1988, the CBOE amended the filing to delete the proposed rule change to the bid-ask differential requirements for options $10 in-the-money. [3]

The proposed rule change was noticed in Securities Exchange Act Release No. 25959 (August 2, 1988), 53 FR 29976

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

[3] *See* leter from Nancy Crossman, Associate General Counsel of the CBOE, to Thomas Gira, Staff Attorney (Sept. 14, 1988).

(August 9, 1988). No comments were received on the proposed rule change.

CBOE Rule 8.7(b) establishes a market-maker obligation to bid or offer for options without creating a bid-ask differential greater than certain maximum allowable differentials. The maximum allowable differential increases as the dollar value of the bid increases. The CBOE has proposed that the maximum allowable differential be lowered from ½ to ⅜ of $1 when options are bid at between $1 and $5. The Exchange believes that this smaller maximum differential will result in improved price continuity and tighter and more liquid markets for these lower priced options, which are favored by a significant number of public investors.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[4] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act because narrowing the maximum allowable market-maker bid-ask differential from ½ to ⅜ for option contracts bid between $1 and $5 will result in improved price continuity and tighter, more liquid markets.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR–CBOE–88–15) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: September 26, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–22567 Filed 9–29–88; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–26111; File No. MSE–88–5]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Stock Exchange Relating To Proposed Fee Revisions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 9, 1988 the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange 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

Attached as Exhibit A is Midwest Stock Exchange's ("MSE") proposed fee revisions.[1]

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 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 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

The purpose of the proposed rule change is to: (i) Amend certain MSE charges to Specialists and Market Markers and (ii) reduce the rate differential charged to those MSE member firms who place orders through such firms' own floor brokers.

Currently, MSE charges a volume fee of 4¢ per $1,000 of volume valuation payable on round lot sales (or major fraction thereof) whenever a MSE Specialist, Market Maker or Floor Broker makes the sale as principal on MSE. Effective September 1, 1988, MSE will charge Specialists a fee of 25¢ per trade plus 1½¢ per $1,000 on round lot sales (or major fraction thereof) as principal whenever the Specialist makes such sale as principal on MSE. Rather than the 4¢ per $1,000 valuation fee, Market Makers will be charged according to the existing Transaction Fee Schedule. Floor Brokers will continue to be charged the existing 4¢ per $1,000 valuation fee for trades done as principal.

Pursuant to MSE's rules, MSE imposes at net commission charge based on member brokerage and handling fees earned on the Floor of MSE. MSE members who execute transactions through their own (or associated) MSE Floor Broker are charged a rate of 8% of such members' Transaction Fees in lieu of a net commission charge. Effective September 9, 1988, this rate differential will be reduced to 1½% of the Transaction Fees generated. The purpose of the rule change is to substantially reduce or eliminate any disincentive that a member may have in using the firm's own or associated floor broker to effect transactions.

The proposed fee increase is consistent with Section 6 of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSE's members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that the proposed rule change will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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

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[4] 15 U.S.C. 78f (1982).

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30–3(a)(12) (1986).

[1] Exhibit A is available for inspection in the Public Reference Branch at Commission headquarters in Washington, DC.

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 21, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-22565 Filed 9-29-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26112; File No. SR-NASD-88-38]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Minimum Number of Persons of Disciplinary Hearing Panels

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 19, 1988, the National Association of Securities Dealers, Inc. ("NASD") 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 NASD. 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 amends Article II, Section 6 (a) and (b) of the NASD Code of Procedure to reduce the minimum number of persons on District Business Conduct Committee ("DBCC") and Market Surveillance Committee hearing panels from three to two persons and to reduce the number of persons required to be current DBCC members on DBCC hearing panels from two to one.

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 NASD 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 NASD 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

Currently under the NASD Code of Procedure, each case before a DBCC may be heard by a subcommittee consisting of three or more persons, at least two of whom must be members of the DBCC.

Over the last several years, the NASD's disciplinary cases have become more numerous and complex and have required significant time commitments on the part of DBCC members. As a result, the NASD has experienced increasing difficulty in conducting DBCC hearings due to the unavailability of hearing subcommittee members. In order to alleviate this problem, the Board of Governors has determined to amend the Code of Procedure so as to permit two person hearing panels and to require that only one person on the panel be a member of the DBCC.

In the consideration of this matter, it was also noted that similar problems are also being encountered in the conduct of Market Surveillance cases. Under the Code of Procedure, Market Surveillance Committee cases currently may be heard by a three or more person panel. The Board of Governors determined that in order to facilitate the hearing process and reduce the demands made upon Market Surveillance Committee members, the minimum number of persons required to hear a Market Surveillance case should similarly be reduced from three to two.

The NASD believes that the proposed rule change is consistent with Section 15A(b)(8) of the Act, which, in pertinent part, mandates that the rules of a national securities association provide a fair procedure for the disciplining of members and persons associated with members. By reducing the minimum number of persons necessary to hear DBCC and Market Surveillance Committee cases, the proposed amendment will enhance the fairness of disciplinary procedures by easing the burdens imposed upon DBCC and Market Surveillance Committee members and facilitating and expediting the hearing process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposed 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 were neither solicited nor 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 NASD 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submissions, 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 NASD. All submissions should refer to the file number in the caption above and should be submitted by October 21, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: September 26, 1988.
Jonathan G. Katz,
Secretary.

[FR Doc. 88-22566 Filed 9-29-88; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-16568; 812-7033]

Financial Horizons Investment Trust; Notice of Application

September 26, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

AACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Financial Horizons Investment Trust (the "Trust") and Nationwide Financial Services, Inc.

Relevant 1940 Act Provisions: Exemption requested under Section 6(c) of the 1940 Act from Sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the 1940 Act and Rules 22c-1 and 22d-1 under the 1940 Act.

Summary of Application: Applicants seek an order granting an exemption from certain sections of the 1940 Act and certain rules under the 1940 Act to permit the offer of shares of the Trust subject to a contingent deferred sales charge which would be waived in certain circumstances.

Filing Date: The application was filed on May 13, 1988 and amended on August 19 and September 20, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 18, 1988. Request a hearing in writing giving the nature of your interest, the reason for the request, and the issue you contest. Serve the Applicants with the request, either personally or by mail, and also sent it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, One Nationwide Plaza, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel at (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Trust is a diversified, open-end investment company organized as a business trust under the laws of Massachusetts. Nationwide Financial Services, Inc. ("NFS"), wholly owned by Nationwide Corporation, a financial services holding company within the Nationwide Group of Insurance Companies, is the distributor and investment adviser of the Trust.

2. The Trust offers shares of four series; the Cash Reserve Fund, the Municipal Bond Fund, the Government Bond Fund and the Growth Fund (the "Funds"). Applicants proposed to offer shares of the Trust subject to a contingent deferred sales charge and to institute a plan of distribution in accordance with Rule 12b-1 under the 1940 Act.

3. Shares of the Trust will be offered and sold without the deduction of a sales load at the time of purchase. A contingent deferred sales charge will be imposed on an investor which reduces the current value of the investor's shares in the Trust to an amount which is lower than the amount of all payments by the investor for the purchase of shares during the preceding seven years. When a redemption is made, the charge is applied against the lesser of the purchase amount or the current value. Such a charge will be imposed only to the extent that the net asset value of the shares redeemed exceeds the current net asset value of shares purchased more than seven years prior to the redemption plus the current net asset value of shares purchased through reinvestment of dividends or distrubutions, plus increases in the net asset value of the investor's shares above the total amount of payments for the purchase of shares made during the preceding seven years. The amount of any contingent deferred sales charge will be paid to and retained by the distributor.

4. The amount of the contingent deferred sales charge, if any, will vary depending on the number of months from the time of payment for the purchase of shares until the time of redemption of such shares. Solely for purposes of determining the number of months from the time of any payment for the purchase of shares, all payments during a month will be aggregated and deemed to have been made on the last day of the preceding month. The contingent deferred sales charge will be 6% during the first 12 months after a purchase payment is made and will decrease by 1% each 12-month period until the 73rd month and thereafter when no charge will be imposed. In determining the rate of any applicable contingent deferred sales charge, it will be assumed that a redemption is made of shares held by the investor for the longest period of time within the applicable seven year period. This will result in any such charge being imposed at the lowest possible rate.

5. The contingent deferred sales charge will be waived in the case of a redemption following death or permanent disability of an investor if the redemption is made within one year of death or initial determination of permanent disability. The charges will also be waived on redemptions effected by current and retired directors, employees and agents of the Nationwide Insurance Companies, their subsidiaries and affiliates, broker-dealers which execute selling agreement with NFS, and advisory clients, and trustees and officers of any investment company distributed by NFS, their spouse, children or immediate relatives including father, mother, brothers, sisters, aunts and uncles. In addition, an investor may reinvest all or part of his redemption proceeds within thirty days of redemption and receive, through a one-time privilege, credit for any contingent deferred sales charge pro-rated according to the percentage of the reinvestment. All of the above waiver provisions are fully disclosed in the Fund's prospectus.

Applicants' Legal Analysis

1. Applicants believe that the contingent deferred sales charge is fair and in the best interests of the investors for a number of reasons. Applicants submit that the operation of the contingent deferred sales charge will enable the Trust's investors to have the advantage of greater investment dollars working for them from the time of their purchase of Trust shares than would be the case if Trust shares were sold subject to a front-end sales load. Applicants further assert that the contingent deferred sales charge is fair to investors because it applies only to redemptions of amounts representing purchase payments for Trust shares and does not apply either to increases in the value of an investor's account through

capital appreciation or to increases representing reinvestment of dividends. Waiver of the contingent deferred sales charge under the above described circumstances, and as fully disclosed in the Trust's prospectus, will not harm Applicants or the remaining Trust investors or purchases.

2. Applicants contend that certain of the waivers from the contigent deferred sales charge are justified on basic considerations of fairness to investors. Applicants submit, for example, that its waiving the contigent deferred sales charge in the extraordinary circumstances of death or permanent disability within one year of death or intitial determination of permanent disability is inherently fair to investors.

3. Applicants believe that the waiver of the contingent deferred sales charge with respect to redemptions of shares owned by current and retired directors, employees and agents of the Nationwide Insurance Companies and its subsidiaries and affiliates, and trustees and officers of any investment company distributed by NFS would not be inconsistent with the purposes underlying Rule 22d–1. In this case, the waiver of the contingent deferred sales charge clearly could not result in a disruption of basic distribution patterns by any means such as creation of a secondary market. Further, Rule 22d–1 was not intended to eliminate all price differences, but only those which might be accidental or might represent unfair discrimination based on the purchaser's inside knowledge, unequal bargaining power or other inequitable advantage. The Applicants submit that the proposed waivers from the contingent deferred sales charge are appropriate because they involve little or no selling expense to NFS.

Applicants Undertaking

1. The Trust will fully comply with the provisions of Rule 22d–1 under the 1940 Act with respect to the contingent deferred sales charge to the same extent it would be required if any contingent deferred sales charge imposed by the Trust were a sales load within the meaning of Section 2(a)(35) of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–22568 Filed 9–29–88; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 06/06–0298]

Southern Ventures, Inc.; Application for License To Operate as a Small Business Investment Company

An Application for a License to operate a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 *et seq.*) has been filed by Southern Ventures, Inc. (SVI), 605 Main Street, Suite 202, Arkadelphia, Arkansas 71923 with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1988).

The proposed officers, directors and shareholders of the Applicant are as follows:

Name and address	Position	Percentage of ownership
Jeffrey Arlen Doose, 1020 Village Drive, Arkadelphia, AR 71923.	President and director.	–0–
Henry Merriam Morgan, Old Concord Road, Lincoln, MA 01773.	Director	–0–
Ronald A. Grzywinski, 5545 S. Kenwood, Chicago, IL 60637.	Chairman and director.	–0–
Mary A. Houghton, 1355 E. 54th Street, Chicago, IL 60615.	Secretary, treasurer, director.	–0–
Walter V. Smiley, 5021 Crestwood, Little Rock, AR 72207.	Director	–0–
Arkansas Enterprise Group, 605 Main Street, Suite 202, Arkandelphia, AR 71923.		100% stockholder.

The Applicant will begin operations with $1,250,000 in private capital contributed by the Arkansas Enterprise Group, which has received a $1,000,000 grant from the Winthrop Rockefeller Foundation, a $250,000 grant from the John D. and Catherine T. MacArthur Foundain and a $1,300,000 loan from the John D. and Catherine T. MacArthur Foundation.

The Applicant will serve as a capital resource for incorporated and unincorporated small business concerns.

At least 85% of SVI's resources will be invested in small businesses that are located in, or will be established, in rural, Arkansas. The remainder of SVI's resources may be used to participate in other eligible small business financings across the nation, with the intention of building relationships with other capital resources and encouraging those funds to invest in rural Arkansas.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Association Administrator for Investment, Small Business Administration, 1441 "L" Street NW. Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulcation in the Arkadelphia, Arkansas area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: September 22, 1988.

[FR Doc. 88–22430 Filed 9–29–88; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Adminstration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Thursday, October 6, 1988, from 9:00 a.m. to 3:00 p.m., at the Metropolitan Federal Bank, 133 South Main Avenue, Sioux Falls South Dakota 57102, to discuss such matters as may be presented by members, staff of the U.S.

Small Business Administration, or others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Security Building, 101 South Main Avenue, Sioux Falls, South Dakota 57102, 605/330-4231.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 22, 1988.

[FR Doc. 88-22434 Filed 9-29-88; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0477]

Unicorn Ventures II, L.P.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to the Regulations governing small business investment companies (13 CFR 107.601 (1988)) for Transfer of Control of Unicorn Ventures II, L.P. (Licensee), 6 Commerce Drive, Cranford, New Jersey 07016, a small business investment company (SBIC) and a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et. seq.*).

The Licensee is a limited partnership SBIC. Mr Authur Bugs Baer, currently a General Partner of Cranford Associates (Cranford), the Licensee's General Partner, will be replaced by James R. Sims. Cranford is a New Jersey limited partnership. A general partner of an unincorporated Licensee is defined as a "Control Person" in § 107.3 of the SBA Regulations. As such, this change in the General Partner of the Licensee constitutes a change of control of said Licensee. The Licensee will retain its present name and location.

The General Partner and the Limited Partners will be as follows:

Name	Title or relationship	Percentage of partnership interest
Cranford Associates	General partner [1].	1.1
New Jersey Life Insurance Co.	Limited partner.	21.7
B.D. Fidanque, Jr., Trustee, u/t/a, dated 1/7/52.	....do	6.5
43 other limited partners each owning less than a 5 percent interest. Included in this group are Mr. Baer and Mr. Diassi who respectively own 3.5 percent and 2.7 percent of the Licensee..		70.7
		100.0

[1] A general partner of which Frank P. Diassi is a 50.0 percent general partner and Arthur R. Sims is a 50.0 percent general partner.

Matter involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441, "L" Street NW., Washington DC 20416.

A copy of the Notice shall be published in a newspaper of general circulation in Cranford, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: September 23, 1988.

[FR Doc. 88-22431 Filed 9-29-88; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0405]

Unicorn Ventures, Ltd.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to the Regulations governing small business investment companies (13 CFR 107.601 (1988)) for Transfer of Control of Unicorn Ventures, Ltd. (Licensee), 6 Commerce Drive, Cranford, New Jersey 07016, a small business investment company (SBIC) and a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et. seq.*).

The Licensee is a limited partnership SBIC. Mr. Arthur Bugs Baer, currently a General Partner of Cranford Associates (Cranford), the Licensee's General Partner, will be replaced by James R. Sims. Cranford is a New Jersey limited partnership. A general partner of an unincorporated Licensee is defined as a "Control Person" in § 107.3 of the SBA Regulations. As such, this change in the General Partner of the Licensee constitutes a change of control of said Licensee. The Licensee will retain its present name and location.

The General Partner and the Limited Partners will be as follows:

Name	Title or relationship	Percentage of partnership interest
Cranford Associates	General Partner [1].	1.2
Arthur Bugs Baer	Limited Partner.	5.1
Joan Rich baer	....do	5.1
Darrill Investments, Inc	....do [2]	11.6
Richard A. Levin	....do	6.1
Joseph W. Rose	....do	9.8
Matthew W. Sterling, Jr.	....do	6.1
28 other limited partners each owning less than a 5 percent interest.		55.0
		100.0

[1] A general partner of which Frank P. Diassi is a 50.0 percent general partner and Arthur R. Sims is a 50.0 percent general partner.

[2] Wholly-owned by Darrill Industries, Inc., which is wholly-owned by Frank P. Diassi.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of the Notice shall be published in a newspaper of general circulation in Cranford, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: September 23, 1988.

[FR Doc. 88-22432 Filed 9-29-88; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0248]

Western Venture Capital Corp.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to the Regulations governing small business investment companies (SBICs) (13 CFR 107.601 (1988)) for a transfer of ownership and control of Western Venture Capital Corporation (WVCC), 4800 S. Lewis, Tulsa, Oklahoma 74105, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as Amended (15 U.S.C. 661 *et seq.*). The proposed transfer of ownership and control of WVCC, which was licensed September 23, 1981, is subject to the prior written approval of SBA.

The transfer of ownership and control relates to the proposed purchase of 42.155 percent of the outstanding shares of common stock of WVCC (442,000 shares) and 38.89 percent of the outstanding shares of preferred stock of WVCC (386,000 shares) by Mr. James M. Fail, 300 W. Osborn, Phoenix, Arizona 85013.

The proposed officers, directors and shareholders of the Applicant are as follows:

Name	Position	Percentage of ownership stock	
		Common	Preferred
William B. Baker, 6533 East 89th Place, Tulsa, OK 74133.	President/director.	0	0
John M. Lare, 8308 South 8th, Broken Arrow, OK 74010.	Vice president	0	0
Thomas D. Gable, 4100 BOK Tower, One Williams Center, Tulsa, OK 74172.	Secretary	1.420	1.420
David R. Larson, 2614 East 57th Place, Tulsa, OK 74105.	Director	2.367	2.367
Robert S. Doenges and William S. Doenges, Partners, P.O. Box 2799, Tulsa, OK 74101.	Director/shareholder.	.474	.474
J. Paschal Twyman, 2121 South Yorktown, Tulsa, OK 74114.	Director	.237	.237
Clyde Wyant, Jr., 1579 East 21st, Tulsa, OK 74114.	...do	.237	.237
James M. Fail, 300 W. Osborn, Phoenix, AZ 85013.	Shareholder	42.155	38.890
Western National Bank, P.O. Box 702680, Tulasa, OK 74170.	...do	16.691	17.630
James W. Wallis, James W. and/or Patricia Wallis, 6410 B North Santa Fe, Oklahoma City, OK 73116.	Director/shareholder.	9.528	10.8
All remaining shareholders individually own less than 5 percent of each class.		26.891	28.665
		100.0	100.00

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416

A copy of the Notice will be published in a newspaper of general circulation in the Tulsa, Oklahoma and Phoenix, Arizona areas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 88-22433 Filed 9-29-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended

September 23, 1988.

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45836

Date Filed: September 19, 1988

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 15, 1988

Description: Application of Caledonian Airways Limited, pursuant to section 402 of the Act and Subpart Q of the Regulations requests the Department to reissue its foreign air carrier permit to reflect applicant's new corporate name "Caledonian Airways Limited" and amending the permit authority by removing the mother-daughter conditions found in paragraph 7 of Order 80-4-119.

Docket No. 45480

Date Filed: September 21, 1988

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 19, 1988

Description: Application of Canada West Air Ltd., pursuant to section 402 of the Act and Subpart Q of the Regulations requests authority to conduct non-scheduled international charter flights from points in Canada to and from points in the United States including Alaska.

Docket No. 45841

Dated Filed: September 23, 1988

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 21, 1988

Description: Application of Jet World Airways, Limited d/b/a/ Jet World Airways, pursuant to section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit to engage in foreign air trnasportation between Antigua and Barbuda and Baltimore/Washington, Atlanta, and Fort Lauderdale, The United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88-22564 Filed 9-29-88; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 88-082]

Meeting of the Chemical Transportation Advisory Committee Subcommittee on Vapor Control

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a meeting of the Chemical Transportation Advisory Committee (CTAC) Subcommittee on Vapor Control, which will be held on Tuesday, October 11, 1988 and Wednesday, October 12, 1988, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 5:00 p.m. on Tuesday, and begin at 8:00 a.m. and end at 3:00 p.m. on Wednesday. The Subcommittee is considering requirements for tank vessels and waterfront facilities which use vapor control systems. At this meeting, the Subcommittee will consider revisions to the draft safety standards and uniform design criteria.

The agenda is as follows:

1. Call to order.
2. Opening remarks.
3. Consideration of revisions to the draft safety standards and uniform design criteria.
4. Assignment of Subcommittee work.
5. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meetings. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R.H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1217.

Dated: September 23, 1988.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88-22438 Filed 9-29-88; 8:45 am]

BILLING CODE 4910-14-M

[CGD 88-081]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463;5 USC App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on October 20, 1988, in the Conference Room, second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York, New York, beginning at 10:00 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Feedback on Group New York's Anchorage Management performance and the monitoring of channel 13 VHF-FM.
3. Update Kill Van/Kull/Newark Bay Dredging Project.
4. Status of the NY Harbor Traffic Management Advisory Committee.
5. Bridge Administration Status Report—Transfer of duties to USACE and safety issues of bridge repairs.
6. Topics from the floor.
7. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander L. BROOKS, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Port Safety Office, Building 109, Governors Island, New York, NY 10004; or by calling (212) 668-7834.

Dated: September 12, 1988.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 88-22440 Filed 9-29-88; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-88-37]

Petition For Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 20, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on September 26, 1988.

Deborah E. Swank,

Acting Manager, Program Management Staff.

Petitions For Exemption

Docket No.: 25554.
Petitioner: Stoddard-Hamilton Aircraft, Inc.
Regulations Affected: 14 CFR 91.42.
Description of Relief Sought: To allow petitioner to receive compensation (on a nonprofit basis) when its Glassair aircraft are operated for the purpose of customer-only flight training.

Docket No.: 25680.
Petitioner: US Air Inc.
Sections of the FAR Affected: 14 CFR 121.411 and 121.413.
Description of Relief Sought: To allow petitioner to utilize certain qualified Fokker B.V. pilots for the initial training of a selected number of petitioner's check airmen in the Fokker 100 aircraft.

Docket No.: 22633.
Petitioner: Virgin Islands Seaplane Shuttle, Inc.
Sections of the FAR Affected: 14 CFR 135.175(a).
Description of Relief Sought/ Disposition: To extend Exemption No. 3487A, as amended, that allows petitioner to conduct day visual flight rule flights in large multiengine airplanes with approved airborne weather radar equipment installed.

GRANT, September 22, 1988, Exemption No. 3487D

Docket No.: 25024.
Petitioner: University of Illinois Institute of Aviation.
Sections of the FAR Affected: 14 CFR Part 141, Appendixes A, C, D, F, and H.
Description of Relief Sought/ Disposition: To extend Exemption No. 4719 that allows petitioner to rain its students to a performance standard in lieu of meeting minimum flight time requirements.

GRANT, September 21, 1988, Exemption No. 4719A

Docket No.: 25568.
Petitioner: Big Sky Transportation Co., dba Northwest Airlink.
Regulations Affected: 14 CFR 135.337 and 135.339.
Description of Relief Sought/ Disposition: To allow petitioner to use certain instructor pilots of British Aerospace Corporation to train petitioner's initial cadre of pilots in the British Aerospace Jetstream 31 (BA-3201) type airplane without holding U.S. certificates and ratings and without meeting all of the applicable training requirements of Subpart H of Part 135.

GRANT, September 21, 1988, Exemption No. 4977

Docket No.: 25677.
Petitioner: Servicio Aereo Leo Lopez. S.A. de C.V.
Sections of the FAR Affected: 14 CFR 61.77(a).
Description of Relief Sought/ Disposition: To allow petitioner's pilots to be issued special purpose pilot certificates to perform pilot duties on a civil airplane of U.S. registry, a Metroliner II, model SA226TC, without that airplane meeting the passenger seating configuration and payload capacity requirements of § 61.77(a).

GRANT, September 23, 1988, Exemption No. 4978

[FR Doc. 88-22425 Filed 9-29-88; 8:45 am]
BILLING CODE 4910-13-M

Maritime Administration

[Docket No. M-008]

Application of Foreign Underwriters to Write Marine Hull Insurance; Uni Mutual and General Insurance Co., et al.

The Maritime Administration (MARAD) has received applications under 46 CFR Part 249 from Uni Mutual and General Insurance Co., a Norwegian underwriter, and Skandia Insurance Company, Ltd. and Hansa Marine Insurance Co., Ltd. who are Swedish underwriters, to write marine hull insurance on subsidized and Title XI program vessels.

In accordance with 46 CFR 249.7(b), interested persons are hereby afforded an opportunity to bring to MARAD's attention any discriminatory laws or practices relating to the placement of marine hull insurance which exist in the applicant's country of domicile.

Responses to this notice must be sent to the Secretary, Maritime Administration, Room 7300, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, and must be received by close of business on (14 days after publication).

James E. Saari,

Secretary, Maritime Administration.

Date: September 27, 1988.

[FR Doc. 88-22444 Filed 9-29-88; 8:45 am]
BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Announcing the First Meeting of the Crash Data Analysis Subcommittee of the Motor Vehicle Safety Research Advisory Committee

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the first meeting of the Crash Data Analysis Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The MVSRAC established this subcommittee at the February 1988 meeting to examine research questions concerning the types of crash data that should be collected, how existing crash data collection programs can be improved and approaches to analyze crash data.

DATE AND TIME: The meeting is scheduled for October 24, 1988, from 10:00 a.m. to 5:00 p.m.

ADDRESS: The meeting will be held at the Carolina Inn—North Parlor in Chapel Hill, North Carolina. The location is at the corner of Columbia and Cameron Streets.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for safety research. The MVSRAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration, and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

This meeting of the Crash Data Analysis Subcommittee will focus on crash data collection and analysis. Discussions will cover: crash data currently being collected and how it can be improved, the types of crash data that should be collected and currently is not, and the types of analysis that should be performed to support highway safety initiatives.

The meeting is open to the public, and participation by the public will be determined by the Subcommittee Chairman, Dr. B.J. Campbell, Director of the University of North Carolina Highway Safety Research Center.

A public reference file (Number 88-01-Crash Data Analysis) has been established to contain the products of the Subcommittee and will be open to the public during the hours of 8:00 a.m. to 4:00 p.m. at the National Highway

Traffic Safety Administration's Technical Reference Division in Room 5108 at 400 Seventh Street SW., Washington, DC 20590, telephone: (202) 366–2768.

FOR FURTHER INFORMATION CONTACT: William A. Boehly, NHTSA National Center for Statistics and Analysis, 400 Seventh Street, SW., Room 6125, Washington DC 20590, telephone: (202) 366–1470.

Issued on: September 27, 1988.

Howard M. Smolkin,

Chairman, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 88–22547 Filed 9–29–88; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 26, 1988.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: None.
Type of Review: Resubmission.
Title: Customer Survey on IRS Tax Publications.
Description: The information we get will help us identify who our customers are and how we can better meet their needs. It will point us to possible problem areas in certain publications. We can then produce a more understandable publication that will reduce the burden on taxpayers and help them comply with the tax laws. The random sample will come from taxpayers requesting the targeted publication(s).
Respondents: Individuals or households.
Estimated Number of Respondents: 3,289.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 329 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88–22467 Filed 9–29–88; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

[Department Circular—Public Debt Series—No. 24–88]

Treasury Notes of September 30, 1990, Series AF–1990

September 22, 1988.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,750,000,000 of United States securities, designated Treasury Notes of September 30, 1990, Series AF–1990 (CUSIP No. 912827 WR 9), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserves Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1 The Notes will be dated September 30, 1988, and will accrue interest from that date, payable on a semiannual basis on March 31, 1989, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1990, and will not be subject to call for redemption pror to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3214.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treaury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Sescurities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be recieved at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, September 27, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, September 26, 1988, and received no later than Friday, September 30, 1988.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers,

which for this purpose are definied as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Friday, September 30, 1988. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, September 28, 1988. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, September 30, 1988. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 88-22548 Filed 9-27-88; 3:45 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 25-88]

Treasury Notes of September 30, 1992, Series P-1992

September 22, 1988.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Notes of September 30, 1992, Series P-1992 (CUSIP No. 912827 WS 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent

of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 30, 1988, and will accrue interest from that date, payable on a semiannual basis on March 31, 1989, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additonal interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, September 28, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 27, 1988, and received no later than Friday, September 30, 1988.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guideliness, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5.

must be made or completed on or before Friday, September 30, 1988. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, September 28, 1988. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, September 30, 1988. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 88-22549 Filed 9-27-88; 3:45 pm]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: U.S. Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and record keeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. In accordance with 40 U.S.C. 486(c) and Executive Order 12352 dated March 17, 1982, USIA is hereby requesting approval of "Information Collection in Support of USIA Acquisition Process." Respondents will be required to respond only one time.

DATE: Comments must be received by October 15, 1988.

Copies: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Robin Eschinger, United States Information Agency, M/ASP, 301 Fourth Street SW., Washington, DC 20547, telephone: (202) 485-7503. OMB Review Officer: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Bldg., Washington, DC 20503, telephone: (202) 395-7430.

SUPPLEMENTARY INFORMATION: Title: "Information Collection in Support of USIA Acquisition Process."

Abstract

Information Collection from the public is necessary to evaluate bids and responses from potential suppliers for supplies, services and hardware for the purpose of making awards in conformance with rules and regulations governing procurement by federal government departments and agencies.

Proposed Frequency of Responses

No. of respondents: 1,292.
Recordkeeping Hours: 256.
Total Annual Burden: 330,752.
Average Burden Per Response: 15 minutes.

Date: September 23, 1988.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 88-22459 Filed 9-29-88; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Veterans' Advisory Committee on Environmental Hazards; Meeting

The Veterans Administration gives notice under Pub. L. 92-463, section 10(a)(2), that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420 on November 3 and 4, 1988. The purposes of the Committee are to review the sceintific and medical literature relating to the possible health effects resulting from exposure to dioxin and ionizing radiation and to assist in the development of Agency policy with respect to veterans' claims for compensation based upon exposure.

The meeting will convene at 10:30 a.m. on November 3 and 9:00 a.m. on November 4 in the Omar Bradley Conference Room. This meeting will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Sylvia Arrington, Veterans Administration Central Office (phone 202/233-2115) prior to October 25, 1988.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Frederic L. Conway, Special Assistant to the General Counsel, Room 1034, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Dated: September 23, 1988.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 88-22436 Filed 9-29-88; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Women Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Women Veterans will be held in Washington, DC, November 29 through November 30, 1988, in the Administrator's Conference Room, Room 1010, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC. The purpose of the Advisory Committee on Women Veterans is to advise the Administrator regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs administered by the Veterans Administration; and the activities of the Veterans Administration designed to meet such needs. The Committee will make recommendations to the Administrator regarding such activities.

The session will convene on November 29, 1988, at 1:45 p.m. and adjourn at 4:30 p.m. The session on November 30, 1988, will begin at 9 a.m. and adjourn at 5:30 p.m. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Brandau, Committee Coordinator, Veterans Administration Central Office (phone 202/233-2621) prior to November 14, 1988.

Dated: September 23, 1988.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 88-22437 Filed 9-29-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 190
Friday, September 30, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Friday, October 7, 1988.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–22639 Filed 9–28–88; 1:59 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 7, 1988.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–22640 Filed 9–28–88; 1:59 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 14, 1988.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–22641 Filed 9–28–88; 1:59 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 21, 1988.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–22642 Filed 9–28–88; 1:59 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 28, 1988.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88–22643 Filed 9–28–88; 1:59 pm]

BILLING CODE 6351-01-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 the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, October 4, 1988, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,258—Midland, Consolidated Office, Midland Texas

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: (1) Notice of Withdrawal of proposed policy statement, entitled "Bank Merger Transactions" which policy statement was published in the **Federal Register** on October 4, 1985, and (2) Solicitation of Comment on a new, substitute proposed policy statement entitled "Bank Merger Transactions," which redefines and clarifies product and geographic markets and the standards to be applied in assessing both the competitive effects and prudential concerns involved in a proposed bank merger transaction.

Memorandum and resolution re: Proposed amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," and Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," which amendments pertain to exemptions from the deposit insurance requirement, the capital equivalency requirement, the country exposure provision, the pledge of assets requirement and to the delegations of authority concerning it, as well as to miscellaneous provisions throughout the regulation.

Memorandum and resolution re: Proposed amendment to Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," which amendment (1) would exempt unit investment trusts from the provisions of section 330.5(b) and consequently from the provision of section 331.1(e) of the Corporation's rules and regulations which require that trusts which are registered or subject to registration under the Investment Company Act of 1940 be treated as corporations for purposes of insurance coverage limits; and (2) if adopted, would result in deposit insurance coverage up to $100,000 as to each beneficial owner.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: September 27, 1988.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 88-22687 Filed 9-28-88; 3:36 pm]
BILLING CODE 6714-01-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 2:30 p.m. on Tuesday, October 4, 1988, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, or employees, agents or other person participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report Re: Century Bank, Tulsa, Oklahoma (2800) (Memo dated September 14, 1988)
Audit Report Re: EDP Audit Report, Travel Voucher System (Memo dated August 30, 1988)

Discussion Agenda:

Application for Federal deposit insurance:

Home Loan & Investment Association (d/b/a Home Loan & Investment Bank), an operating noninsured loan and investment company located at 224 Weybosset Street, Providence, Rhode Island.

Application for consent to purchase assets and assume liabilities and to establish one branch:

Highland Community Bank, Chicago, Illinois, for the Corporation's consent to purchase the assets of and to assume the liability to pay deposits made in the 500 West 119th Street, Chicago, Illinois, Branch of United Savings of America, Streamwood, Illinois, a non-FDIC-insured institution, and for consent to establish that branch as a branch of Highland Community Bank.

Recommendation regarding the Corporation's assistance agreement with an insured bank.

Report of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report Re: NFC Payroll Audit (Memo dated September 15, 1988)

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Name of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: September 27, 1988.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 88-22688 Filed 9-28-88; 3:36 pm]
BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 4, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, October 6, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft AO 1988-38: Thomas R. Donovan on behalf of the Board of Trade of the City of Chicago
Draft AO 1988-39: Jerrold E. Salzman on behalf of The Commodity Futures Political Fund of the Chicago Mercantile Exchange ("CFPF")
Proposed Public Hearing on MCFL Rulemaking.
Administration Matters.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 88-22581 Filed 9-27-88; 4:52 pm]
BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., October 5, 1988.

PLACE: Hearing Room One, 1100 L Street NW., Washington, DC 20573-0001.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion Open to the Public

1. Docket No. 88-7—*Service Contracts—"Most Favored-Shipper Provisions"*—Consideration of Comments.

Portion Closed to the Public

1. Fact Finding Investigation No. 17—Rates, Charges and Services Provided at Marine Terminal Facilities.
2. Agreement No. 224-200079 Between Ryan-Walsh Gulf, Inc. and Orange County Navigation and Port District—Request for Jurisdictional Determination.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,
Secretary.
[FR Doc. 88-22580 Filed 9-27-88; 4:52 pm]
BILLING CODE 6730-01-M

Corrections

Federal Register
Vol. 53, No. 190
Friday, September 30, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50567; FRL-3448-5]

Benzenamine, 4-chloro-2-methyl-; Benzenamine, 4-chloro-2-methyl-, Hydrochloride; Benzenamine, 2-chloro-6-methyl-; Proposed Significant New Use of Chemical Substances

Correction

In proposed rule document 88-21160 beginning on page 36076 in the issue of Friday, September 16, 1988, make the following corrections:

1. On page 36077, in the third column, in the first paragraph, in the eighth line, "methylaniline" was misspelled.

2. On the same page, in the same column, in the same paragraph, in the 15th line, "hydrochloride" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0309]

Drug Export; PTS Cough Syrup

Correction

In notice document 88-19914 appearing on page 33861 in the issue of Thursday, September 1, 1988, make the following correction:

In the third column, in the second complete paragraph, in the third line, "21 U.S.C. 381" should read "21 U.S.C. 382".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AGL-21]

Proposed Springfield, OH, Control Zone Establishment and Dayton Wright-Patterson AFB, OH, Control Zone Alteration

Correction

In proposed rule document 88-21473 beginning on page 36581 in the issue of Wednesday, September 21, 1988, make the following correction:

On page 36581, in the third column, under **The Proposal**, in the second paragraph, in the sixth line, "an hour" should read "and hours".

BILLING CODE 1505-01-D

federal register

Friday
September 30, 1988

Part II

National Aeronautics and Space Administration

48 CFR Part 1801 et al.
Acquisition Regulations; Miscellaneous Amendments to NASA FAR Supplement

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1804, 1805, 1807, 1814, 1815, 1824, 1825, 1828, 1829, 1830, 1832, 1835, 1842, 1845, 1846, 1847, 1849, 1852, and 1870

[NASA FAR Supplement Directive 85-12]

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes implementing higher level issuance and other changes impacting the public or dealing with NASA internal or administrative matters.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Chief, Regulations Development Branch, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-8923.

SUPPLEMENTARY INFORMATION:

Background

The major changes involve: (1) ratification, (2) contract identification and approval, (3) Buy American Act procedures and determinations, (4) facilities capital, (5) installation-provided government property, (6) termination settlement memoranda, (7) source evaluation board operating procedures, and (8) publication of several clauses and provisions originated by NASA centers for local use, but now authorized for agencywide use. NASA FAR Supplement Directive 85-12, as published separately by NASA, also includes extensive material on the NASA Research Announcement, NASA's version of the broad agency announcement authorized by the Federal Acquisition Regulation. It is not included here, however, as it was published separately as a final rule in the Federal Register of August 29, 1988 (53 FR 32902).

Typographical and editorial changes to improve readability and conformance with FAR drafting conventions have been made. Substantive meanings have not been altered; however, entire textual segments have been reprinted when such changes are both numerous and scattered through the rule.

The NASA FAR Supplement, of which this rule is a part, is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. It is not distributed to the public, either in whole or in part, directly by NASA.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The regulations herein are in the exempted category. NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulation imposes no burdens on the public within the ambit of the Paper Work Reduction Work Act, as implemented at 5 CFR Part 1320. However, it is noted that a clause prescribed at 1832.502-470 implements a FAR information collection requirement which is covered by approval number 9000-0010; therefore, a separate NASA approval number is not required.

List of Subjects in 48 CFR Parts 1801, 1804, 1805, 1807, 1814, 1815, 1824, 1825, 1828, 1829, 1830, 1832, 1835, 1842, 1845, 1846, 1847, 1849, 1852, and 1870

Government procurement.

S.J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1801, 1804, 1805, 1807, 1814, 1815, 1824, 1825, 1828, 1829, 1830, 1832, 1835, 1842, 1845, 1846, 1847, 1849, 1852, and 1870 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Subpart 1801.6 is amended by revising 1801.602-3 to read as follows:

1801.602-3 Ratification of unauthorized commitments.

(a) *Policy.* (1) Unauthorized commitments are strongly discouraged and can indicate serious employee misconduct. Individuals making unauthorized commitments may be subject to disciplinary action, and the issue may be referred to the Office of Inspector General.

(2) Paragraph 1802.101 defines the head of the contracting activity in NASA. See FAR 1.602-3(b)(2).

(b) *Limitations.* (1) The authority in FAR 1.602-3 may be exercised only when—(i) The Government employee who made the unauthorized commitment, or his/her supervisor, if appropriate, initiates a procurement request in accordance with 1804.7301(a). The procurement request and/or accompanying documentation shall identify the individual who made the unauthorized commitment, explain why normal acquisition procedures were not followed, explain why the firm was selected and list other sources considered, describe the work, and estimate or state the agreed price; and

(ii) The contracting officer obtains a certification that funds are available and were available at the time the unauthorized commitment was made in accordance with FAR 1.602-3(c)(6).

(2) The ratifying official shall provide a copy of each ratification along with information specified in FAR 1.602-3 and this paragraph (b) to the Assistant Administrator for Procurement (Attn: Code HP).

PART 1804—ADMINISTRATIVE MATTERS

3. Part 1804 is amended as set forth below:

1804.170 [Amended]

a. In 1804.170, paragraph (b), the reference "1831.70" is removed, and "1832.705-270(b)" is added in its place.

b. In Subpart 1804.4, 1804.402 is revised to read as follows:

1804.402 General.

NASA industrial security policies and procedures are prescribed in NASA Management Instruction 1650.1, "Industrial Security Policies and Procedures." (See also 1842.202-72).

1804.7102 [Amended]

c. In 1804.7102, the phrase "NASA Research Announcements" is added between the words "proposal," and "contracts,".

1804.7102-4 [Amended]

d. In 1804.7102-4, paragraph (a), the installation "Space Station Procurement Office" and its prefix "NAS14" are added at the bottom of the list of approved prefixes.

1804.7103-2 [Amended]

e. In 1804.7103-2, the installation "Space Station Procurement office" and its prefix "D" are added to the bottom of the list of approved prefixes.

PART 1805—PUBLICIZING CONTRACT ACTIONS

4. Part 1805 is amended as set forth below:

1805.303-71 [Amended]

In 1805.303-71, paragraphs (b)(1) and (b)(2), the reference "1804.7205" is revised to read "1804.7203" in both instances.

PART 1807—ACQUISITION PLANNING

5. Part 1807 is amended as set forth below:

1807.103 [Amended]

a. In 1807.103, paragraph (a)(2)(vii) is revised to read as follows:

(a) * * *

(2) * * *

(vii) Resulting from broad agency announcements listed in 1835.016.

b. Subpart 1807.70, consisting of 1807.7001 is added to read as follows:

Subpart 1807.70—Contract Clause

1807.7001 Estimate of work.

Subpart 1807.70—Contract Clause

1807.7001 Estimate of work.

The contracting officer may insert a provision substantially as stated at 1852.207-70, Estimate of Work, in solicitations if (a) mission suitability is considered more important than cost, (b) there is no other method to define the amount of work contemplated, and (c) use of the clause is approved at least one level above the contracting officer. Insert the total estimated value of the procurement.

PART 1814—SEALED BIDDING

1814.404-170 [Amended]

6. In 1814.404-70, paragraph (b)(2) is revised to read as follows:

1814.404-170 Delegation of authority.

* * * * *

(b) * * *

(2) The procurement officer, if the solicitation is to be cancelled because (i) all otherwise acceptable bids received are at unreasonable prices, (ii) only one bid is received and the contracting officer cannot determine the reasonableness of the bid price, or (iii) the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith. The procurement officer shall obtain the advice of the Chief Counsel before making this determination.

PART 1815—CONTRACTING BY NEGOTIATION

7. Subpart 1815.6 is amended by revising paragraph (a) of 1815.613-71 to read as follows:

1815.613-71 Evaluation and negotiation of procurements conducted in accordance with source evaluation board (SEB) procedures.

(a) *Applicability.* (1) These SEB procedures shall be used in all competitive negotiated procurements of $25,000,000 or more including those where the initial contract is less than $25,000,000 but where it is likely that the source selected will receive contracts for follow-on or later phases of the same project which when combined would total $25,000,000 or more. (Examples are options and later phases as in A-109 procurements.) Exceptions to the above include procurements where:

(i) Sealed Bids will be used;

(ii) Architect-Engineer (A&E) services are being procured; or

(iii) ADP subject to the Brooks Act (40 U.S.C. 759), as implemented by the Federal Information Resources Management Regulation (FIRMR) (41 CFR Ch. 201), is being procured. However, the use of SEB procedures is optional for procurements of ADP subject to the Brooks Act.

(2) The detailed procedures regarding the designation and operation of SEBs are in 1870.303, App. I, commonly known as the Source Evaluation Board Handbook.

(3) Evaluation of system design concepts resulting from requests for alternative system design concept proposals in support of a major system acquisition subject to NMI 7100.14 policies and procedures should include, in addition to proposed system function and performance capabilities to meet mission needs and program objectives, an analysis of resources required and benefits to be derived by trade-offs, where feasible, among technical performance, acquisition costs, ownership costs, time to develop and procure, and the relevant accomplishment record of competitors.

(4) These SEB procedures may be used in any other competitively negotiated procurements where a Source Selection Official determines it is desirable to do so.

* * * * *

PART 1824—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

8. Part 1824 is amended by revising Subpart 1824.1, consisting of 1824.102, and adding Subpart 1824.2, consisting of 1824.202, to read as follows:

Subpart 1824.1—Protection of Individual Privacy

1824.102 General.

Subpart 1824.2—Freedom of Information Act

1824.202 Policy.

Subpart 1824.1—Protection of Individual Privacy

1824.102 General.

For NASA rules and regulations implementing the Privacy Act, see NMI 1382.17 (14 CFR 1212).

Subpart 1824.2—Freedom of Information Act

1824.202 Policy.

(a) NASA implementation of the Freedom of Information Act is found in NMI 1382.2 (14 CFR 1206).

(b) When receiving any Freedom of Information Act request from the public, the contracting officer shall immediately refer the request to the Freedom of Information Act Officer, NASA Information Center, or other responsible point of contact as set forth in installation procedures.

PART 1825—FOREIGN ACQUISITION

9. Subpart 1825.1, consisting of 1825.101, 1825.102, 1825.103, and 1825.105 and Subpart 1825.2, consisting of 1825.202, 1825.203, 1825.205, and 1825.205-70, are revised to read as follows:

Subpart 1825.1—Buy American Act—Supplies

1825.101 Definitions.

"Canadian end product" means an unmanufactured end product, mined or produced in Canada, or an end product manufactured in Canada if the cost of its components which are mined, produced, or manufactured in Canada or the United States exceeds 50 percent of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product.

1825.102 Policy.

(a) Administrator determinations under FAR 25.102(a)(3), domestic preference inconsistent with the public interest. (1) Within NASA, these determinations are made by the Assistant Administrator for Procurement.

(2) For blanket determinations regarding Canadian end products, see 1825.103.

(b) Contracting officer determinations under FAR 25.102(a)(4), domestic nonavailability of end products. (1) NASA has determined that the items listed at FAR 25.108 are not mined, produced, or manufactured in the United

States in sufficient and reasonably available commercial quantities of a satisfactory quality. In addition, NASA contracting officers may make additional determinations of nonavailability both prior to entering into contracts and in the course of contract administration; provided, however, that in the latter case the Government receives adequate consideration. A copy of each determination of nonavailability shall be included in the contract file.

(2) The following is the format for nonavailability determinations made by the contracting officers:

Determination of Nonavailability

Pursuant to the authority contained in the Buy American Act (41 U.S.C. 10) and authority delegated to me by 48 CFR 1825.102(b), I hereby find—

a. (Insert a description of the item or items to be procured, including unit, quantity, and estimated cost inclusive of duty and transportation costs to destination.);

b. (Enter the name and address of proposed contractor or supplier and country of origin of the items.);

c. (Include a brief statement of the necessity for the procurement.); and

d. (Include a statement of facts establishing the nonavailability of similar items of domestic origin. If there is no known domestic item which can be used as a reasonable substitute, make a statement to this effect.)

Based upon these findings, I determine that the above-described item(s) is not mined, produced, or manufactured, or the articles, materials, or supplies from which it is manufactured, are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Accordingly, the requirement of the Buy American Act that procurement be made from domestic sources and that the item(s) be of domestic origin is not applicable to this procurement, since said procurement is within the nonavailability exception stated in the Buy American Act.

Authority is granted to procure the above-described item(s) of foreign origin (country or origin) at an estimated total cost of $_____, including duty and transportation costs to destination.

(Date)_____

Contracting Officer_____

(3) Contracting officer determinations made under 1825.102(b) shall be approved by the head of the contracting activity if the contract is estimated to exceed $1,000,000.

1825.103 Agreements with certain foreign governments. Canadian end products and Canadian components.

(a) The Assistant Administrator for Procurement has determined that where application of the procedure in paragraph (a)(1) below results in the acquisition of Canadian end products, it would be inconsistent with the public interest to acquire domestic end products (see FAR 25.102(a)(3)). The Assistant Administrator for Procurement has also determined that it would be inconsistent with the public interest to apply restrictions of the Buy American Act to components mined, produced, or manufactured in Canada (see paragraph (a)(2) below). Accordingly, contracting officers shall—

(1) Evaluate all bids and proposals offering Canadian end products on a parity with bids and proposals offering domestic end products, except that applicable duty (whether or not a duty-free entry certificate may be issued) shall be included in evaluating such bids and proposals offering Canadian end products; and

(2) Treat all components mined, produced, or manufactured in Canada as though they were mined, produced, or manufactured in the United States, except that, in evaluating bids and proposals containing such components, applicable duty (whether or not a duty-free entry certificate may be issued) shall be included.

1825.105 Evaluating offers.

(a) *Examples.* The following examples illustrate how to evaluate offers of foreign (non-Canadian) end items using the provisions of FAR 25.105.

(1) *Example 1:* Price differential of six percent or less between low foreign (non-Canadian) and low domestic bid or proposal from a large business not in a labor surplus area. See Table 1825–1. The low domestic bid is not unreasonable, that is, the low domestic bid is less than the low foreign bid plus six percent; award would be made to the low domestic offeror.

(2) *Example 2:* Price differential of six percent between low foreign (non-Canadian) and low domestic bid or proposal which is not a small business and/or labor surplus area concern. See Table 1825–2.

(3) *Example 3:* Solicitation permits multiple awards and FAR 25.105(c) permits application of the evaluation procedure in 25.105(a) on a group or item-by-item basis. Each domestic offeror is a small business or labor surplus area concern thus requiring that the lowest acceptable foreign offer be increased by 12 percent. In cases where an award exceeding $250,000 would be made to a domestic concern if the 12-percent factor were applied but not if the 6-percent factor were applied, FAR 25.105(c) requires that the award be submitted to the agency head for decision as to whether award to the domestic concern would involve unreasonable cost. In NASA, the Administrator has delegated this authority to the Assistant Administrator for Procurement. See Table 1825–3.

(i) For items 1 and 3, award would be made to the low acceptable domestic offeror but would not be submitted to the Assistant Administrator for Procurement because—

(A) The low acceptable domestic offeror is a small business and/or labor surplus area concern;

(B) The differential does not exceed 12 percent on an item-by-item basis; and

(C) The total low acceptable domestic offeror does not exceed $250,000.

(ii) For items 2 and 4, award would be made to the low acceptable foreign offeror but would not be submitted to the Assistant Administrator for Procurement because—

(A) The low acceptable domestic offeror is a small business or labor surplus area concern;

(B) The differential exceeds 12 percent on an item-by-item basis; and

(C) The low acceptable domestic offer does not exceed $250,000.

(4) *Example 4:* Solicitation permits multiple awards and FAR 25.105(b) permits applications of the evaluation procedure in 25.105(a) on a group or item-by-item basis. Each domestic offeror is a small business or labor surplus area concern thus requiring that the lowest acceptable foreign offer be increased by 12 percent. In cases where an award exceeding $250,000 would be made to a domestic concern if the 12 percent were applied but not if the 6-percent factor were applied, FAR 25.105(c) requires that the award be submitted to the agency head for decision as to whether award to the domestic concern would involve unreasonable costs. In NASA, the Administrator has delegated this authority to the Assistant Administrator for Procurement. See Table 1825–4. (Note that both bids include transportation to destination and the foreign bid includes duty.)

(i) For the grouping of Items 1, 2, 3, and 4, the proposed total would be submitted to the Assistant Administrator for Procurement for decision pursuant to FAR 25.105(c) which requires the agency head to decide whether award to a domestic concern would involve unreasonable cost when—

(A) The low acceptable domestic offeror on each line item is a small business or labor surplus area concern and the low acceptable foreign offer for each line item must be increased for evaluation purposes by 12 percent (see FAR 25.105(a)(2));

(B) On an item-by-item basis, the low acceptable domestic price exceeds the

low acceptable foreign price plus 6 percent but is less than the foreign price plus 12 percent; or

(C) The grouping of the four line items for purposes of a single award exceeds $250,000.

(ii) Table 1825–5 illustrates the pertinent figures in applying FAR 25.105(c). Columns 3 and 4 illustrate how award on each item would go to the domestic offeror if the 12-percent factor were added to the foreign bid. Addition of the 12-percent factor makes the foreign bid unreasonable. However, addition of only the 6-percent factor to the foreign bid makes the domestic offeror unreasonable in each case because, even with the addition of the 6 percent, the foreign bid is still lower than the domestic bid. Stated otherwise, because the low acceptable domestic offeror is a small business or labor surplus area firm, the price of the low acceptable foreign offeror must be raised by 12 percent for price evaluation purposes. Accordingly, each evaluated price of items 1, 2, 3, and 4 exceeds the domestic bid price for that item. However, in each case, if only the 6-percent factor is added instead of the 12 percent, the individual awards would go to the foreign offeror instead of the domestic offeror, thus requiring the procurement to be submitted to the Assistant Administrator for Procurement for a final decision as to whether award to the domestic concern would involve unreasonable cost.

(b) *Tie Bids.* If the evaluation procedure (that is, application of differentials) set forth at FAR 25.105 results in a tie between the foreign offer and the domestic offer, award will be made to the latter.

TABLE 1825–1

	Low bids	
	Domestic	Foreign
Cost to Destination	$20,000	$19,000
Import Duty		600
Total	$20,000	$19,600
Six Percent Differential		1,176
Total	$20,000	$20,776

TABLE 1825–2

	Low bids	
	Domestic	Foreign
Cost to Destination	$20,000	$17,000
Import Duty		500
Total	$20,000	$17,500
Six Percent Differential		1,050

TABLE 1825–2—Continued

	Low bids	
	Domestic	Foreign
Total	$20,000	$18,550

TABLE 1825–3

	Low bids			Actual percent difference between bids
	Foreign	Domestic		
		A	B	
Item:				
1.	$50,000	$55,500		11
2.	50,000		$56,500	13
3.	75,000	81,750		9
4.	12,000		16,250	30

TABLE 1825–4

	Low bids		Actual percent difference between bids
	Foreign	Domestic	
Item:			
1.	$100,000	$111,000	11
2.	200,000	220,000	10
3.	50,000	55,000	10
4.	25,000	27,000	8

TABLE 1825–5

	1—Foreign bid	2—Foreign bid plus 6%	3—Domestic bid	4—Foreign bid plus 12%	5—Actual percentage difference of domestic bid over foreign bid
Item:					
1.	$100,000	$106,000	$111,000	$112,000	11
2.	200,000	212,000	220,000	224,000	10
3.	50,000	53,000	55,000	56,000	10
4.	25,000	26,500	27,000	28,000	8
	$375,000		$413,000		

Subpart 1825.2—Buy American Act—Construction Materials

1825.202 Policy.

(a) *Exception for unreasonable costs of domestic construction materials.* The Assistant Administrator for Procurement has determined that where the application of the procedures set forth in 1825.203 results in the acquisition of foreign construction materials, the use of domestic construction materials would unreasonably increase the cost.

(b) *Exception for impracticability of using domestic construction materials.* The Assistant Administrator for Procurement has determined that when justified as required by FAR 25.203(b), the use of a domestic construction material would be impracticable.

(c) *Exception for nonavailability of the domestic construction material.* (1) NASA has determined that any construction material listed at FAR 25.108 is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(2) In addition, subject to the approval of the head of the contracting activity where required (see FAR 25.202(b)), contracting officers are authorized to make determinations of nonavailability before issuance of the solicitation under FAR 25.202(a)(3). Contracting officers are also authorized to make additional determinations of nonavailability both before and after award; provided, however, that in the latter case, the Government receives adequate consideration. The format for nonavailability determinations is at 1825.102(b).

1825.203 Evaluating offers.

When a bid or proposal offering the use of additional foreign construction material (other than those listed as exceptions in the invitation for bid or request for proposal; see 1825.202(c) and 1852.225–71) would be the low acceptable bid but for the Buy American Act, award will be made on such bid or proposal provided that all the following conditions are satisfied:

(a) The bid or proposal specifically designates the foreign construction material proposed for use.

(b) As to each such foreign construction material, the data accompanying the bid or proposal show that the cost of any available acceptable domestic construction material delivered at the construction site would exceed by more than 6 percent the cost (including duty) of the designated foreign construction material delivered at the construction site.

(c) As to each such foreign construction material, the contracting officer is satisfied that the showing of a cost differential of more than 6 percent as required by paragraph (b) of this section is correct as of the date of opening of the bids or proposals.

(d) The bid or proposal is low after adding, for evaluation purposes, to such bid or proposal a factor of 6 percent of the cost (including duty) of all foreign construction materials (delivered at the construction site) which are offered in such bid or proposal and which qualify under the conditions stated in paragraphs (a), (b), and (c) above.

1825.205 Solicitation provision and contract clause.

1825.205-70 NASA contract clause.

The clause at 1852.225-71, Nondomestic Construction Materials, shall be included in all contracts for construction, and any articles of materials and supplies which have been the subject of additional determinations under 1825.202(c) shall be listed thereunder.

PART 1828—BONDS AND INSURANCE

10. Subpart 1828.3 is amended by adding section 1828.372 to read as follows:

1828.372 Clause for minimum insurance coverage.

In accordance with FAR 28.306(b) and 28.307, the contracting officer may insert a clause substantially as stated at 1852.228-75, Minimum Insurance Coverage, in fixed price solicitations and contracts requiring performance on a government installation and in cost reimbursement contracts. The contracting officer may modify the clause to require additional coverage, such as vessel liability, and higher limits if appropriate for a particular procurement.

PART 1829—TAXES

11. Part 1829 is amended by revising Subpart 1829.2, consisting of 1829.203, to read as follows:

Subpart 1829.2—Federal Excise Taxes

1829.203 Other Federal tax exemptions.

(a) The Assistant Administrator for Procurement has obtained a permit from the Bureau of Alcohol, Tobacco, and Firearms (Treasury Department) enabling NASA and its contractors to purchase spirits (e.g., specially denatured spirits) tax-free for nonbeverage Government use. Installations can obtain copies of the permit from the Procurement Policy Division (Code HP) at NASA Headquarters.

(b) When purchasing spirits for use by NASA personnel, the contracting officer shall attach a copy of the permit to the contract. Upon receipt of the spirits, the permit shall be returned to the contracting officer unless future orders are anticipated.

(c) When a NASA contractor requires spirits to perform a NASA contract, the contracting officer shall furnish the contractor a copy of the permit to provide its vendor. Upon receipt of the spirits, the contractor shall return the permit to the contracting officer unless future orders are anticipated. In any event, the permit shall be returned upon completion of the contract.

(d) To comply with 26 U.S.C. 5271(g), the procurement officer shall post a copy of the permit for inspection.

PART 1830—COST ACCOUNTING STANDARDS

12. Part 1830 is amended by adding Subpart 1830.70, consisting of 1830.7000 through 1830.7002-6, to read as follows:

Subpart 1830.70—Facilities Capital Employed for Facilities in Use or for Facilities Under Construction

Subpart 1830.70—Facilities Capital Employed for Facilities in Use or for Facilities Under Construction

1830.7000 General.

Pending issuance of FAR coverage, the NASA Procurement Regulation (NPR) (48 CFR Chapter 18, Para. 3.1300) shall continue to govern facilities capital employed for facilities. This subpart is substantively identical to the NPR. It is reproduced here with current textual citations and updated cross-references for the user's convenience.

1830.7001 Facilities capital employed for facilities in use.

1830.7001-1 Policy.

It is the policy of the Government to recognize facilities capital employed as an element in establishing the price of certain negotiated defense contracts when such contracts are priced on the basis of cost analysis. The inclusion of this recognition is intended to reward contractor investments, motivate increased productivity and reduced costs through the use of modern manufacturing technology, and to generate other efficiencies in the performance of defense contracts. The recognition of contractor investments in the development of the profit objective will result in a profit objective based on a combination of effort, risk, and investment factors.

1830.7001-2 Definitions, measurement, and allocation.

Cost Accounting Standard (CAS) No. 414, "Cost of Money as an Element of the Cost of Facilities Capital," establishes criteria for the measurement and allocation of the cost of capital committed to facilities as an element of contract cost for historical cost determination purposes. Important features of the CAS are its definitions, techniques for application, and a prescribed Form CASB-CMF with instructions. This Section adopts the techniques of CAS 414 as the approved method of measurement and allocation of facilities cost of money to overhead pools at the business unit level and adds only such supplementary procedures as are necessary to extend those techniques to contract forward pricing and administration matters. Therefore, these procedures are intended to be completely compatible with, and an extension of, the definitions, criteria, and techniques of CAS 414. Contractors who computerize their financial data are encouraged to meet the requirements of both CAS 414 and this subpart from the same data bank and programs.

1830.7001-3 Estimating business unit facilities capital and cost of money.

The method of estimating the business unit facilities capital and cost of money utilizes the techniques of CAS 414. Cost of money factors (CMF) by overhead pools at the business unit are developed using Form CASB-CMF. Three elements are required to develop cost of money overhead allocation base date, and the interest rate promulgated by the Secretary of the Treasury pursuant to Pub. L. 92-41. These elements are discussed below.

(a) *Business unit facilities capital data.* (1) The net book value (acquisition cost less accumulated depreciation) is used for each cost accounting period. The net book value used is the total of (i) the net book value of facilities recorded on the accounting records of the business unit, (ii) the capitalized value of leases (see FAR 31.205-2 and FAR 31.205-36), and (iii) the net book value of facilities at the corporate or group level that support depreciation charges allocated to the business unit under the provisions of CAS 403.

(2) Projections of facilities capital will be supported by budget plans and/or similar type documentation and the estimated depreciation will be the same as used in projected overhead rates. Projections well accommodate changes in the level of facilities net book value, e.g., facilities additions, deletions of facilities by sale, abandonment or other disposal, idle facilities (see FAR 31.205-17).

(b) *Overhead allocation bases.* The base data used to compute the CMF must be the same as that used to compute the proposed overhead rates. CMFs should be submitted and evaluated as part of the proposal.

(c) *Interest rate.* For purpose of projection, the most recent interest rate promulgated by the Secretary of the Treasury will be used as the cost of money rate in Column 1 of Form CASB-CMF and the same rate must be used on the DD Form 1861 to determine contract facilities capital employed. Where actual costs are used in definitization actions, the actual treasury rate(s) applicable to the period(s) of the incurred costs will be recognized by development of a composite rate.

(d) *Determination of final cost of money.* CMFs estimated following the above procedures are used to develop the facilities investment base used in forward pricing. Actual CMFs are required when it is necessary to determine final allowable costs for cost settlement and/or repricing following CAS 414 and FAR 31.205-10.

1830.7001-4 Contract facilities capital estimates.

(a) After the appropriate Forms CASB-CMF have been analyzed and CMFs have been developed, the contracting officer is in a position to estimate the facilities capital cost of money and capital employed for a contract proposal. DD Form 1861 "Contract Facilities Capital and Cost of Money" has been provided for this purpose and, when properly completed, becomes a connecting link between the Forms CASB-CMF and any applicable agency structured approach to determination of profit or fee objectives. An evaluated contract cost breakdown reduced to the contracting officer's pre-negotiation cost objective must be available. The procedure is similar to applying overhead rates to appropriate overhead allocation bases to determine contract overhead costs.

(b) DD Form 1861 provides for listing overhead pools and direct-charging service centers (if used) in the same structure they appear on the contractor's cost proposal and Forms CASB-CMF. The structure and allocation base units-of-measure must be compatible on all three displays. The base for each overhead pool must be broken down by year to match each separate Form CASB-CMF. Appropriate contract overhead allocation base data are extracted by year from the evaluated cost breakdown or pre-negotiation cost objective, and are listed against each separate Form CASB-CMF. Each allocation base is multiplied by its corresponding cost of money factor, to get the Facilities Capital Cost of Money estimated to be incurred each year. The sum of these products represents the estimated Contract Facilities Capital Cost of Money for the Year's effort. Total contract facilities cost of money is the sum of the yearly amounts.

(c) Since the Facilities Capital Cost of Money Factors reflect the applicable cost of money rate in Column 1 of Form CASB-CMF, the Contract Facilities Capital Employed can be determined by dividing the contract Cost of Money by the same rate. DD Form 1861 is designed to record and compute all the above in the most direct way possible, and the end result is the Contract Facilities Capital Cost of Money and Capital Employed which is carried forward to the applicable agency structured approach to determination of profit or fee objectives.

1830.7001-5 Preaward facilities capital applications.

Facilities Capital Cost of Money as determined above is applied in establishing cost and price objectives as follows:

(a) *Cost of money*—(1) *Cost objective.* This special, imputed cost of money shall be used, together with normal, booked costs, in establishing a cost objective or the target cost when structuring an incentive type contract. Target costs thus established at the outset, shall not be adjusted as actual cost of money rates become available for the periods during which contract performance takes place.

(2) *Profit objective.* Cost of Money shall not be included as part of the cost base when measuring the contractor's effort in connection with establishing a pre-negotiation profit objective. The cost base for this purpose shall be restricted to normal, booked costs.

(b) *Facilities capital employed.* The profit objective as it relates to the risk associated with facilities capital employed shall be assessed and weighted in accordance with agency profit guidelines.

1830.7001-6 Post award facilities capital applications.

(a) *Interim billings based on costs incurred.* Contract Facilities Capital Cost of Money may be included in cost reimbursement and progress payment invoices. The amount that qualifies as cost incurred for purposes of the Allowable Cost and Payment or Progress Payment clause of the contract is the result of multiplying the incurred portions of the overhead pool allocation bases by the latest available Cost of Money Factors. Like applied overhead at forecasted overhead rates, such computations are interim estimates subject to adjustment. As each year's data are finalized by computation of the actual Cost of Money Factors under CAS 4114 and FAR 31.205-10, the new factors should be used to calculate contract facilities cost of money for the next accounting period.

(b) *Final settlement.* Contract Facilities Capital Cost of Money for final cost determination or repricing is based on each year's final Cost of Money Factors determined under CAS 414 and supported by separate Form CASB-CMF. Contract cost must be separately computed in a manner similar to yearly final overhead rates. Also like overhead costs, the final settlement will include an adjustment from interim to final contract cost of money. However, estimated or target cost will not be adjusted.

1830.7001-7 Administrative procedures.

(a) Contractor submission of Form CASB-CMF will normally be initiated

under the same circumstances as Forward Pricing Rate Agreements (FPRAs) (see FAR 15.809), and evaluated as complementary documents and procedures. Separate Forms are required for each procedures. Separate Forms are required for each prospective cost accounting period during which Government contract performance is anticipated. If the contractor does not annually negotiate FPRAs, submissions may nevertheless be made annually or with individual contract pricing proposals, as agreed to by the contractor and the cognizant contract administration office. The cognizant contract administration office shall, with the assistance of the cognizant auditor, evaluate the cost of money factors, and retain approved factors with other negotiated forward pricing data and rates.

(b) The contracting officer will complete a DD Form 1861, Contract Facilities Capital and Cost of Money, after evaluating the contractor's cost proposal and determining his pre-negotiation cost objective, but before determining his pre-negotiation profit objective. The contracting officer may request the cognizant contract administration office to complete the DD Form 1861 in connection with normal field pricing support under FAR 15.805–5, and include it in field pricing support report with appropriate evaluation comments and recommendations.

(c) A final Form CASB–CMF must be submitted by the contractor under CAS 414 as soon after the end of each cost accounting period as possible, for the purpose of final cost determinations and/or repricing. The submission should accompany the contractor's proposal for actual overhead costs and rates, and be evaluated as complementary documents and procedures.

1830.7002 Facilities capital employed for facilities under construction.

1830.7002–1 Policy.

It is Government policy to recognize a contractor's investment in capital facilities while these are being constructed, fabricated, or developed for the contractor's own use. This recognition is made through the allowance of an imputed cost of money amount which is (a) calculated in accordance with 1830.7002–3, (b) capitalized along with the other costs of the asset for which the investment is made, and (c) allocated to contracts following 1830.7002–4.

1830.7002–2 Definitions.

The following definitions have been taken or developed from Cost Accounting Standard (CAS) 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction.

(a) *Intangible capital asset.* An asset that has no physical substance, has more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the benefit it yields.

(b) *Tangible capital asset.* An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the service it yields.

(c) *Cost of money rate.* The cost of money rate is either the interest rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41 (85 Stat. 97), or the time-weighted average of such rates for each cost accounting period during which the asset is being constructed, fabricated, or developed. The time-weighted average interest rate is calculated by multiplying the various rates in effect during the months of construction by the number of months each rate was in effect. The sum of the products is divided by the total number of months in which the rates were experienced.

(d) *Representative investment.* The representative investment is the calculated amount considered invested by the contractor in the project to construct, fabricate, or develop the asset during the cost accounting period. In calculating the representative investment, consideration must be given to the rate or expenditure pattern of the investment, i.e., if most of the investment was at the end of the cost accounting period, the representative investment calculation must reflect this fact.

(1) If the contractor experiences an irregular or uneven expenditure pattern in the construction, fabrication, or development of a capital asset, i.e., a majority of the construction costs were incurred toward the beginning, middle, or end of the cost accounting period, the contractor must either:

(i) Determine a representative investment amount for the cost accounting period by calculating the average of the month-end balances for that cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

(2) If the construction, fabrication, or development costs were incurred in a fairly uniform expenditure pattern throughout the construction period, the contractor may:

(i) Determine a representative investment amount for the cost accounting period by averaging the beginning and ending balances of the construction, fabrication, or development cost account for the cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

1830.7002–3 Measurement.

(a) The imputed cost of money for an asset under construction, fabrication, or development is calculated by applying a cost of money rate (see 1830.7002–2(c)), to the representative investment amount (see 1830.7002–2(d)).

(1) When a representative investment amount is determined for a cost accounting period following 1830.7002–2(d)(1)(i) or 1830.7002–2(d)(2)(i), the cost of money rate used shall be the time-weighted average rate.

(2) When a monthly representative investment amount (see 1830.7002–2(d)(1□(ii) or 1830.7002–2(d)(ii)) is used, the cost of money rate shall be the rate in effect each month. (Note: Under this method, the cost of money calculating is made monthly and the total for the cost accounting period is the sum of the monthly calculations.)

(b) The method chosen by a contractor for determining the representative investment amount may be different for each capital asset being constructed, fabricated, or developed as long as the method fits the expenditure pattern of the construction costs incurred.

(c) The imputed cost of money will be capitalized only once in any cost accounting period; either at the end of the period or at the end of the construction period, whichever comes first.

(d) When the construction of an asset takes more than one cost accounting period, the cost of money capitalized for the first cost accounting period will be included in determining the representative investment amount for any future cost accounting periods.

1830.7002–4 Composition and allocation of costs.

(a) The cost of money for a tangible capital asset determined following 1830.7002–2 and 1830.7002–3 shall be capitalized along with the other construction, fabrication, or development cost of that asset for purposes of depreciation under FAR 31.205–11.

(b) The cost of money for an intangible capital asset determined following 1830.7002–2 and 1830.7002–3

shall be capitalized along with other construction, fabrication, or development costs of that asset and amortized over appropriate cost accounting periods.

(c) Where CAS 414 of money is allocated to construction, fabrication, or development effort following 1830.7001, it will be recognized and considered an element of total construction costs and be included in all calculations of the asset's representative investment amount.

1830.7002-5 Limitations.

If substantially all activities necessary to get an asset ready for its intended use are discontinued, cost of money shall not be capitalized for the period of discontinuance, except when such discontinuance arises out of causes beyond the control and without the fault or negligence of the contractor.

1830.7002-6 Preaward capital employed application.

An offset to the profit objectives is not required for CAS 417 cost of money.

PART 1832—CONTRACT FINANCING

13. Part 1832 is amended as set forth below:

a. Sections 1832.502–4 and 1832.502–470 are added to read as follows:

1832.502-4 Contract clauses.

1832.502-470 NASA contract clause.

The contracting officer may insert a clause substantially as stated at 1852.232–82, Submission of Requests for Progress Payments, for fixed price solicitations and contracts that provide for progress payments. The recipient of the requests may be changed if this function is delegated. The number of copies of the request may be changed if necessary to meet a substantial need.

1832.704 [Amended]

b. In Section 1832.704, paragraph (b) is revised to read as follows:

* * * * *

(b)(1) It is not necessary, although it is not prohibited, to have separate financial/accounting data for cost and fee. The breakdown is required only in the clause at 1852.232–81.

(2) The amount obligated for fee should always be at least sufficient to pay fee anticipated to be earned by the contractor for the work to which the amount allotted for the estimated cost applies.

1832.705-270 [Amended]

c. In 1832.705–270, paragraphs (c) and (d) are added to read as follows:

* * * * *

(c) The contracting officer shall insert the clause substantially as stated at 1852.232–81, Contract Funding, in solicitations and contracts containing the clause at FAR 52.232–22, Limitation of Funds. Insert the amounts of funds available for payment, the items covered, and the applicable period of performance. The contracting officer may add additional funding information (such as a summary of old amounts, amount(s) added in contract modifications, and new totals) as appropriate for the particular procurement.

(d) As authorized by FAR 52.232–22, the contracting officer shall substitute "Contract Funding clause" for "Schedule," wherever that word appears in FAR 1852.232–22.

Subpart 1832.8 [Removed]

d. Subpart 1832.8, consisting of 1832.806, is removed.

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

1835.071 [Amended]

14. In 1835.071, after the word "Program," the remainder of the sentence is removed, and the parenthetical phrase "(see 1846.270(a))." is added in its place.

PART 1842—CONTRACT ADMINISTRATION

15. Subpart 1842.2 is amended as set forth below:

1842.202 [Amended]

a. In paragraph (a)(2) of 1842.202, paragraph (a)(2)(iv) is removed, and paragraphs (a)(2) (v), (vi), (vii), and (viii) are redesignated (iv),(v), (vi), and (vii), respectively.

1842.202-70 [Amended]

b. (1) In 1842.202–70, paragraph (a), after the word "audit," the remainder of the sentence is removed, and the phrase "and security offices, see 1842.202–71 and 1842.202–72, respectively):" is added in its place.

(2) In 1842.202–70, paragraph (d) is removed, and paragraphs (e) and (f) are redesignated (d) and (e), respectively.

c. Section 1842.202–72 is added to read as follows:

1842.202-72 Delegations to security offices.

NASA's policies and procedures on security are set forth in NMI 1650.1, Industrial Security Policies and Procedures. Contracting officers shall delegate responsibility for administering the Industrial Security Program [which has been designated as an administrative contracting officer (ACO) responsibility in Appendix C, Industrial Security Regulation, DOD 5220.22R, see also FAR 42.302(a)(20)] to DOD unless the contractor will perform the classified contract on a NASA installation or the classified work has been "carved-out." (A "carve-out" is defined in Section 1, paragraph 3, item f.1., of the DOD Industrial Security Manual for Safeguarding Classified Information, September 1987, DOD 5220.22M, as a classified contract issued in connection with an approved Special Access Program in which the Defense Investigative Service has been relieved of inspection responsibility in whole or in part.) The basis for DOD's performance of administrative contracting officer responsibility for the Industrial Security Program on NASA contracts is a NASA–DOD Agreement. The contracting officer shall specifically identify security functions delegated to DOD or to another NASA installation (see 1842.171) on NASA Form 1430A.

PART 1845—GOVERNMENT PROPERTY

16. In Subpart 1845.1, 1845.106–70 is revised to read as follows:

1845.106-70 NASA contract clauses.

(a) The contracting officer shall insert the clause at 1852.245–70, Acquisition of Existing Government Equipment, in all solicitations and contracts that include a Government property clause. See 1845.7103 and 1852.245–70 for instructions on preparing DD Form 1419.

(b) (1) The contracting officer shall insert the clause at 1852.245–71, Installation-Provided Government Property, in solicitations and contracts when Government property is to be provided to on-site contractors, and the Government will retain accountability for the property. The contracting officer shall identify in the contract Schedule the nature and extent of such property and the installation supply and equipment management officer will make such property available to the contractor on a no-charge-for-use basis. The contracting officer shall also list in the contract the applicable installation property management directives.

(2) Contracting officers may also use the clause if Government property is provided to off-site local support service contractors. In this case, the concurrence of the installation supply and equipment management officer must be obtained and indicated in the procurement request.

(3) To avoid diluting contractor responsibilities when they include separate procurement authority and responsibility, contracting officers may

preclude such contractors from utilizing the installation's central receiving facility for receiving contractor-acquired property. To accomplish this, the contracting officer shall use the clause with its Alternate I. The contracting officer shall review the acquisitions reported by the contractor for their appropriateness, and the supply and equipment management officer shall ensure that records are established.

(4) Contracting officers shall clearly identify in a separate schedule any property provided under a Government property clause but not also subject to the clause at 1852.245–71. The contracting officer shall address any specific maintenance considerations (for example, requiring use of a central calibration facility) elsewhere in the contract.

(c) The contracting officer shall insert the clause at 1852.245–72, Liability for Government Property Furnished for Repair and Services, in fixed-price solicitations and contracts (except for experimental, developmental, or research work with educational or nonprofit institutions, where no profit is contemplated) for repair, modification, rehabilitation, or other servicing of Government property, if such property is to be furnished to a contractor for that purpose. If (1) a substantial quantity of parts or material will be furnished, (2) a significant amount of scrap will result from the work to be performed, or (3) other Government property will be furnished to or acquired by the contractor, the contract will also contain the appropriate Government property clause (see FAR 45.106) and the contract Schedule shall provide that such property shall be governed by the terms of that clause. When minor repairs are obtained under small purchase procedures, the procedures of this paragraph (c) shall not apply. Contracting officers shall not require additional insurance under the clause at 1852.245–72 unless the circumstances clearly indicate advantages to the Government.

(d) The contracting officer shall insert the clause at 1852.245–73, Financial Reporting of Government-Owned/Contractor-Held Property, in all contracts unless (1) it is virtually certain that Government property will not be furnished to or acquired by the contractor (e.g., as in most study contracts and certain contracts for services), (2) the only property to be provided is for the purpose of repair or servicing (see 1852.245–72), or (3) all property to be provided is subject to the clause at 1852.245–71, Installation-Provided Government Property (see paragraph (b) above). Reporting shall be on an annual basis except when an on-site contractor performs property acquisition and management for the Government. In these cases, the Government may require more frequent reporting, and the contracting officer shall use the clause with its Alternate I (monthly reporting) or Alternate II (quarterly reporting) as appropriate. The contracting officer shall insert in the clause the address and office code of a single organization within the cognizant NASA installation designated as the focal point for control and distribution of NASA Form 1018.

(e) The contracting officer shall insert the clause at 1852.245–74, Contractor Accountable On-Site Government Property, in solicitations and contracts when accountability rests with an on-site contractor. The contracting officer shall obtain approval to use the clause at 1852.245–74 in lieu of the clause at 1852.245–71 from Chief, Supply and Equipment Management Division (Code NIE), NASA Headquarters. The request for approval shall be written and shall include a determination of costs that will be (i) avoided (e.g., additional costs to the installation's property management systems and staffing) and (ii) incurred (e.g., reimbursable costs of the contractor to implement, staff, and operate separate property management systems on-site, and resources needed for performance of, or reimbursement for, property administration) under contractor accountability.

(f) The contracting officer shall insert the clause at 1852.245–,75, Title to Equipment, in solicitations and contracts where the clause at FAR 52.245–2 (Alternate II) or 52.245–5 (Alternate I) is used. Insert a dollar value not less than $5,000, based on the particular procurement, and identify the property for which vesting of title with the Government is appropriate.

(g) The contracting officer shall insert the clause at 1852.245–76, List of Government-Furnished Property, in solicitations and contracts if the contractor is to be accountable under the contract for Government property. Insert the name of the Government installation, contractor's plant, or other site(s) where the Government property will be used. Insert a description of the item(s), quantity, acquisition cost, and date the property will be furnished to the contractor.

(h) The contracting officer shall insert the clause at 1852.245–77, List of Installation-Provided Property and Services, in solicitations and contracts that authorize contractor use of on-site Government property and services, such as office space, the cafeteria, or first-aid. Insert the attachment number identifying the equipment to be made available to the contractor. Insert the name of the installation service facilities, such as a library, computer facility, or health center, that the contractor will be authorized to use. The property and services may be specified, modified, and updated to meet the needs of the particular procurement.

(i) The contracting officer shall insert the clause at 1852.245–78, Space Hardware Reporting, in solicitations and contracts where space hardware reporting is contemplated. Insert the space hardware to be reported.

(j) The contracting officer shall insert the provision at 1852.245–79, Use of Government-Owned Property, in all solicitations when Government property may be used by the contractor.

(k) The contracting officer shall insert the clause at 1852.245–80, Use of Government Production and Research Property on a No-Charge Basis, in solicitations and contracts when Government production and research property (facilities, special test equipment, or special tooling) accountable under another contract(s) is authorized for use. Insert the contract number(s) under which the Government property is accountable.

17. Part 1845 is amended as set forth below:

a. In Subpart 1845.1, 1845.106–70 is revised to read as follows:

1845.106–70 NASA contract clauses.

(a) The contracting officer shall insert the clause at 1852.245–70, Acquisition of Existing Government Equipment, in all solicitations and contracts that include a Government property clause. See 1845.7103 and 1852.245–70 for instructions on preparing DD Form 1419.

(b) (1) The contracting officer shall insert the clause at 1852.245–71, Installation-Provided Government Property, in solicitations and contracts when Government property is to be provided to on-site contractors, and the Government will retain accountability for the property. The contracting officer shall identify in the contract Schedule the nature and extent of such property and the installation supply and equipment management officer will make such property available to the contractor on a no-charge-for-use basis. The contracting officer shall also list in the contract the applicable installation property management directives.

(2) Contracting officers may also use the clause if Government property is provided to off-site local support service contractors. In this case, the

concurrence of the installation supply and equipment management officer must be obtained and indicated in the procurement request.

(3) To avoid diluting contractor responsibilities when they include separate procurement authority and responsibility, contracting officers may preclude such contractors from utilizing the installation's central receiving facility for receiving contractor-acquired property. To accomplish this, the contracting officer shall use the clause with its Alternate I. The contracting officer shall review the acquisitions reported by the contractor for their appropriateness, and the supply and equipment management officer shall ensure that records are established.

(4) Contracting officers shall clearly identify in a separate schedule any property provided under a Government property clause but not also subject to the clause at 1852.245–71. The contracting officer shall address any specific maintenance considerations (for example, requiring use of a central calibration facility) elsewhere in the contract.

(c) The contracting officer shall insert the clause at 1852.245–72, Liability for Government Property Furnished for Repair and Services, in fixed-price solicitations and contracts (except for experimental, developmental, or research work with educational or nonprofit institutions, where no profit is contemplated) for repair, modification, rehabilitation, or other servicing of Government property, if such property is to be furnished to a contractor for that purpose. If (1) a substantial quantity of parts or material will be furnished, (2) a significant amount of scrap will result from the work to be performed, or (3) other Government property will be furnished to or acquired by the contractor, the contract will also contain the appropriate Government property clause (see FAR 45.106) and the contract Schedule shall provide that such property shall be governed by the terms of that clause. When minor repairs are obtained under small purchase procedures, the procedures of this paragraph (c) shall not apply. Contracting officers shall not require additional insurance under the clause at 1852.245–72 unless the circumstances clearly indicate advantages to the Government.

(d) The contracting officer shall insert the clause at 1852.245–73, Financial Reporting of Government-Owned/Contractor-Held Property, in all contracts unless (1) it is virtually certain that Government property will not be furnished to or acquired by the contractor (e.g., as in most study contracts and certain contracts for services), (2) the only property to be provided is for the purpose of repair or servicing (see 1852.245–72), or (3) all property to be provided is subject to the clause at 1852.245–71, Installation-Provided Government Property (see paragraph (b) above). Reporting shall be on an annual basis except when an on-site contractor performs property acquisition and management for the Government. In these cases, the Government may require more frequent reporting, and the contracting officer shall use the clause with its Alternate I (monthly reporting) or Alternate II (quarterly reporting) as appropriate. The contracting officer shall insert in the clause the address and office code of a single organization within the cognizant NASA installation designated as the focal point for control and distribution of NASA Form 1018.

(e) The contracting officer shall insert the clause at 1852.245–74, Contractor Accountable On-Site Government Property, in solicitations and contracts when accountability rests with an on-site contractor. The contracting officer shall obtain approval to use the clause at 1852.245–74 in lieu of the clause at 1852.245–71 from Chief, Supply and Equipment Management Division (Code NIE), NASA Headquarters. The request for approval shall be written and shall include a determination of costs that will be (i) avoided (e.g., additional costs to the installation's property management systems and staffing) and (ii) incurred (e.g., reimbursable costs of the contractor to implement, staff, and operate separate property management systems on-site, and resources needed for performance of, or reimbursement for, property administration) under contractor accountability.

(f) The contracting officer shall insert the clause at 1852.245–75, Title to Equipment, in solicitations and contracts where the clause at FAR 52.245–2 (Alternate II) or 52.245–5 (Alternate I) is used. Insert a dollar value not less than $5,000, based on the particular procurement, and identify the property for which vesting of title with the Government is appropriate.

(g) The contracting officer shall insert the clause at 1852.245–76, List of Government-Furnished Property, in solicitations and contracts if the contractor is to be accountable under the contract for Government property. Insert the name of the Government installation, contractor's plant, or other site(s) where the Government property will be used. Insert a description of the item(s), quantity, acquisition cost, and date the property will be furnished to the contractor.

(h) The contracting officer shall insert the clause at 1852.245–77, List of Installation-Provided Property and Services, in solicitations and contracts that authorize contractor use of on-site Government property and services, such as office space, the cafeteria, or first-aid. Insert the attachment number identifying the equipment to be made available to the contractor. Insert the name of the installation service facilities, such as a library, computer facility, or health center, that the contractor will be authorized to use. The property and services may be specified, modified, and updated to meet the needs of the particular procurement.

(i) The contracting officer shall insert the clause at 1852.245–78, Space Hardware Reporting, in solicitations and contracts where space hardware reporting is contemplated. Insert the space hardware to be reported.

(j) The contracting officer shall insert the provision at 1852.245–79, Use of Government-Owned Property, in all solicitations when Government property may be used by the contractor.

(k) The contracting officer shall insert the clause at 1852.245–80, Use of Government Production and Research Property on a No-Charge Basis, in solicitations and contracts when Government production and research property (facilities, special test equipment, or special tooling) accountable under another contract(s) is authorized for use. Insert the contract number(s) under which the Government property is accountable.

b. In Subpart 1845–3, 1845.302–2 is revised to read as follows:

1845.302–2 Facilities contracts.

Unless termination would be detrimental to the Government's interests, contracting officers shall terminate facilities contracts when the Government production and research property is no longer required for the performance of Government contracts or subcontracts. Contracting officers shall not grant the contractor the unilateral right to extend the time during which it is entitled to use the property provided under the facilities contract.

1845.302–270 [Removed]

c. Section 1845.302–270 is removed.

d. In Subpart 1845–4, 1845.406 is added to read as follows:

1845.406 Use of Government production and research property on independent research and development programs.

Contractors generally will not be authorized to use Government property for independent research and development on a rent-free basis except

in unusual circumstances when it has been determined by the contracting officer that—

(a) Such use is clearly in the best interests of the Government (for example, the project can reasonably be expected to be of value in specific Government programs); and

(b) The policy in FAR 45.201 is adhered to in that no competitive advantage will accrue to the contractor through such use.

1845.502-70 [Removed]

1845.502-71 and 1845.502-72 [Redesignated as 1845.502-70 and 1845.502-71

e. In Subpart 1845.5, 1845.502-70 is removed, and 1845.502-71 and 1845.502-72 are redesignated 1845.502-70 and 1845.502-71, respectively.

f. In Subpart 1845.6, 1845.604 is revised to read as follows:

1845.604 Restrictions on purchase or retention of contractor inventory.

(a) No contractor may sell contractor inventory to persons known by it to be NASA or DOD personnel who have been engaged in administering or terminating NASA contracts .

(b)(1) The contractor's or subcontractor's authority to approve sale, purchase, or retention at less than cost by a subcontractor, and the subcontractor's authority to sell, purchase, or retain at less than cost contractor inventory with the approval of the contractor or next higher-tier subcontractor does not include authority to approve—

(i) A sale by a subcontractor to contractor or the next higher-tier subcontractor or to an affiliate of the contractor or of either subcontractor; or

(ii) A sale, purchase, or retention at less than cost by a subcontractor affiliated with the contractor or next higher-tier subcontractor.

(2) Each excluded sale, purchase, or retention requires the written approval of the plant clearance officer.

g. In Subpart 1845.6, 1845.607 is revised, and 1845.607-70 is added to read as follows:

§ 1845-607 Scrap

1845.607-70 Contractor's approved scrap procedure.

(a) When a contractor has an aproved scrap procedure, certain property may be routinely disposed of in accordance with that procedure and not processed under this subpart.

(b) A plant clearance case shall not be established for property disposed of through the contractor's approved scrap procedure.

(c) The plant clearance officer shall review the contractor's scrap and salvage procedure, particularly regarding sales, before its approval by the property administrator. The plant clearance officer shall ensure that the procedure contains adequate requirements for inspecting and examining items to be disposed as scrap. When the contractor's procedure does not require physical segregation of Government-owned scrap from contractor-owned scrap and separate disposal, care shall be exercised to assure that a contract change that generates a large quantity of property does not result in an inequitable return to the Government. In such a case, the property administrator shall make a determination as to whether separate disposition of Government scrap would be appropriate.

(d) Scrap, other than that disposed of through the contractor's approved scrap procedure, shall be reported on appropriate inventory schedules for disposition in accordance with the provisions of FAR Part 45 and this NASA FAR Supplement.

(e) Silver, gold, platinum, palladium, rhodium, iridium, osmium, and ruthenium; scrap bearing such metals; and items containing recoverable quantities of them shall be reported to the Defense Reutilization and Marketing Service, DRMS-R, Federal Center, Battle Creek, MI 49017-3092, for instructions regarding disposition.

1845.607-71 and 1845.607-72 [Removed]

h. In Subpart 1845.6, 1845.607-71 and 1845.607-72 are removed.

PART 1846—QUALITY ASSURANCE

18. Part 1846 is amended as set forth below:

a. Subpart 1846.2, consisting of 1846.270, and Subpart 1846.4, consisting of 1846.470, are added to read as follows:

Subpart 1846.2—Contract Quality Requirements

1846.270 Contract clauses for space-flight-related operations.

(a) The contracting officer shall insert the clause at 1852.246-70, Space Transportation System (STS) Personnel Reliability Program, in solicitations and contracts involving critical positions in accordance with NASA Management Instruction 8610.13. The clause, however, shall not be used in procurements for flight crew members or payload specialists when these individuals are covered by other NASA Management Instructions that have screening requirements equivalent to those in NMI 8610.13 (for example, NMI 7100.16, Payload Specialists for NASA-Related Projects).

(b) The contracting officer shall insert the clause at 1852.246-73, Manned Space Flight Item, in solicitations and contracts for manned space flight hardware and flight-related equipment where it has been determined by the technical requirements initiator that the highest available quality standards are necessary to ensure astronaut safety.

Subpart 1846.4—Government contract quality assurance

1846.470 Contract clause.

The contracting officer may insert a clause substantially as stated at 1852.246-71, Government Contract Quality Assurance Functions, in solicitations and contracts where deliverables are required. Insert the items involving quality assurance, the applicable functions (e.g., preliminary inspection, final inspection, acceptance), and the place(s) of performance appropriate for the particular procurement. See FAR 46.401.

b. In Subpart 1846.6, 1846.674 is added to read as follows:

1846.674 Contract clause.

The contracting officer shall insert the clause at 1852.246-72, Material Inspection and Receiving Report, in solicitations and contracts, except those using small purchase procedures or where the only deliverable items are technical or scientific reports. Insert the number of copies to be prepared. Paragraph (a) may be changed to specify advance copies or separate distribution of the DD Form 250.

PART 1847—TRANSPORTATION

19. In Subpart 1847.3, 1847.305-70 is revised to read as follows:

1847.305-70 NASA contract clauses.

(a) Insert the clause at 1852.247-70, Returnable Gas Cylinders, in contracts involving the purchase of gas in contractor-furnished returnable cylinders, if the contractor retains title to the cylinders. The clause may be used, with appropriate modification, in contracts for supplies involving reels, spools, drums, carboys, liquid petroleum gas containers, or other reusable containers, if the contractor retains title.

(b) The contracting officer may insert a clause substantially as stated at 1852.247-72, Advance Notice of Shipment, in solicitations and contracts when the F.O.B. point is destination and special Government assistance is required in the delivery or receipt of the items. Insert the number of work days prior to shipment that advance notice is

required, the items to be shipped, and individual(s) to receive information.

(c) The contracting officer may insert a clause substantially as stated at 1852.247–73, Shipment by Government Bills of Lading, in F.O.B. origin solicitations and contracts. Insert the name, title, mailing address, and telephone number of the designated transportation officer or other official delegated responsibility for GBL's.

PART 1849—TERMINATION OF CONTRACTS

20. Subpart 1849.5, consisting of 1849.505 and 1849.505–70, is revised to read as follows:

Subpart 1849.5—Contract Termination Clauses

1849.505 Other termination clauses.

1849.505–70 NASA contract clause.

The contracting officer shall insert the clause at 1852.249–72, Termination (Utilities), in all solicitations and contracts for utilities services.

21. Subpart 1849.6 consisting of 1849.603 and 1849.603–70 is revised to read as follows:

Subpart 1849.6—Contract Termination Forms and Formats

1849.603 Formats for termination for convenience settlement agreements.

Termination contracting officers (TCOs) must use the format shown in 1849.603–70 for the settlement memorandum (see FAR 49.110). Contractors and subcontractors are encouraged to use this format appropriately modified to cover subcontract settlements submitted for review and approval.

1849.603–70 Termination Contracting Officer's Settlement Memorandum.

(a) *General information.* The TCO shall include the following information regarding the contractor, contract, and termination notice:

(1) *Identification.* TCOs shall identify the purpose and content of the memorandum.

(i) The TCO shall give the name and address of the contractor and discuss any pertinent affiliation between prime contractors and subcontractors relative to the overall settlement.

(ii) The TCO shall list the names and titles of contractor and Government personnel who participated in the negotiation.

(2) *Description of terminated contract.* The TCO shall state the—

(i) Date of contract;

(ii) Contract number;

(iii) Type of contract for fixed-price contracts or the total cost and fee if a complete termination for cost-reimbursement type contracts;

(iv) General description of contract items;

(v) Total contract price; and

(vi) Applicable contract termination provisions and clause.

(3) *Termination notice.* The TCO shall reference the termination notice and state—

(i) The effective date of termination;

(ii) The scope and nature of termination (complete or partial);

(iii) The items terminated;

(iv) The unit prices;

(v) The total price of items terminated for fixed-price contracts or the estimated cost and fee applicable to items terminated for cost-reimbursement type contracts;

(vi) Whether the termination notice was amended and, if so, why;

(vii) Whether the contractor stopped work on the termination effective date (if it did not, furnish details) and whether subcontracts were terminated promptly;

(viii) Any redirection, of common items and return of goods to the contractor's suppliers; and

(ix) The extent of contract performance and timely deliveries by the contractor.

(b) *Contractor's settlement proposal.* The TCO shall summarize the contractor's settlement proposal. The summary shall include the following:

(1) *Date and amount.* The TCO shall identify the date and location where the claim was filed and its gross amount (if interim settlement proposals were filed, information shall be furnished for each claim).

(2) *Basis of claim.* The TCO shall identify the basis of the claim, e.g., inventory, total cost, or other basis. The TCO shall explain any approvals granted in connection with submission on other than an inventory basis.

(3) *Examination of proposal.* The TCO shall identify the types of reviews made and by whom (audit, engineering, legal, or other).

(c) *Tabular summary of contractor's claim.* The TCO shall summarize the proposed settlement in tabular form. The summary shall include the cost elements/items, the amounts claimed, the Government recommended position (including auditor and technical personnel recommendations), and the negotiated settlement amounts. This summary shall include, if appropriate, the previous reimbursed and unreimbursed costs applicable to the prime contractor and subcontractor, previous profit/fees paid and unpaid; settlement cost less disposal credit or other credits, and a recapitulation of previous settlements. The TCO shall expand the format to include field recommendations that will be considered.

(d) *Settlement summary.* The TCO shall address the settlements reached on the items in paragraphs (d) (1) through (14) following:

(1) Contractor's cost. (i) If the settlement was negotiated on the basis of individual items, the TCO shall specify the factors and the consideration given with respect to each item.

(ii) If the auditor's final report was not available for consideration, the TCO shall state the circumstances.

(iii) The TCO shall elucidate the tabular summaries with comment.

(iv) In the case of a lump sum settlement, the TCO shall discuss the basis for each element of cost and profit/fee.

(v) The TCO shall explain any unusual items of cost.

(vi) The TCO shall discuss any important adjustments made to costs claimed or any significant amounts in relation to the total claim.

(vii) If a partial termination is involved, the TCO shall state whether the contractor has requested an equitable adjustment in the price of the continued portion of the contract.

(viii) The TCO shall discuss any unadjusted contractual changes included in the settlement.

(ix) The TCO shall discuss whether or not a loss would have been incurred and explain any adjustment made for the loss.

(x) The TCO shall furnish other information explaining the recommended settlement to the Settlement Review Board or any other reviewing authority.

(2) *Profit/Fee.* (i) The TCO shall explain the basis and factors considered in arriving at an equitable profit under a fixed-price contract.

(ii) The TCO shall explain the adjustments to the fixed fee, identify the basis used (such as percentage of completion), and describe the factors considered in arriving at an equitable fee under a cost-reimbursement type contract. The TCO shall include any tabular summaries or breakdowns deemed helpful to an understanding of the process.

(3) *Settlement expenses.* The TCO shall discuss and summarize those expenses not included in the audit.

(4) *Subcontractor settlements.* The TCO shall identify the number and dollar amount of any settlements approved by the TCO and concluded by

the contractor under delegation of authority.

(5) *Partial payments.* The TCO shall furnish the total amount of any partial payments.

(6) *Progress or advance payments.* The TCO shall furnish the total of unliquidated progress or advance payments.

(7) *Claims of the Government against the contractor included in settlement agreement reservations.* The TCO shall list any outstanding claims the Government has against the contractor regarding the terminated contract.

(8) *Assignments.* The TCO shall list any assignments, identifying the name and address of each assignee.

(9) *Disposal credits.* The TCO shall furnish information as to any applicable disposal credits and quantify them.

(10) *Plant clearance.* The TCO shall state whether all plant clearance actions have been completed and all inventory sold, retained, or otherwise properly disposed of in accordance with applicable plant clearance regulations. The TCO shall discuss any unusual matters pertaining to plant clearance. The TCO shall attach a consolidated closing plant clearance report, if applicable.

(11) *Government property.* The TCO shall state whether all Government property has been accounted for.

(12) *Special tooling.* The TCO shall discuss the disposition of any special tooling, if applicable.

(13) *Summary of settlement.* The TCO shall summarize the complete or partial settlement in tabular form. The summary shall include, at a minimum, the amount claimed and allowed for contractor and/or subcontractor changes, disposal, prior payment credits, and contract price.

(14) *Exclusions.* The TCO shall describe any proposed reservation of rights to the Government or to the contractor.

(e) *Recommendation.* The TCO shall state (1) the amount of the gross settlement recommended and (2) that it is fair and reasonable to the Government and the contractor.

(f) *Signature.* The TCO shall sign and date the memorandum.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

22. Part 1852 is amended as set forth below:

a. Sections 1852.207,–70, 1852.228–73, 1852.228–74, 1852.228–75, 1852.232–22, 1852.232–81, 1852.232–82, 1852.245–75, 1852.245–76, 1852.245–77, 1852.245–78, 1852.245–79, 1852.245–80, 1852.246–70, 1852.246–71, 1852.246–72, 1852.246–73, 1852.247–72, and 1852.247–73 are added to read as follows:

1852.207–70 Estimate of work.

As prescribed in 1807.7001, insert the following provision:

ESTIMATE OF WORK

(OCTOBER 1988)

It is estimated that approximately $_____ [Insert estimated value of procurement] will be available to perform this work. This estimate is provided as a guide only to the approximate effort required.

(End of provision)

1852.228–73 Bid bond.

As prescribed in 1828.101–370, insert the following provision:

BID BOND

(OCTOBER 1988)

(a) Each bidder shall submit with its bid a bid bond (Standard Form 24) with good and sufficient surety or sureties acceptable to the Government, or other security as provided in Federal Acquisition Regulation clause 52.228–1, in the amount of twenty percent (20%) of the bid price, or $3 million, whichever is the lower amount.

(b) Bid bonds shall be dated the same date as the bid or earlier.

(End of provision)

1852.228–74 Payment and performance bonds.

As prescribed in 1828.102–70, insert the following provision:

PAYMENT AND PERFORMANCE

BONDS (OCTOBER 1988)

The successful bidder will be required to furnish payment and performance bonds to the Contracting Officer as follows:

(a) *Performance Bonds:* (Standard Form 25)

(1) The penal amount of performance bonds shall be 100 percent of the original contract price.

(2) The Government may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) *Payment Bonds: (Standard Form 25–A)*

(1) The penal amount of payment bonds shall equal—

(i) 50 percent of the contract price if the contract price is not more than $1 million;

(ii) 40 percent of the contract price if the contract price is more than $1 million but not more than $5 million; or

(iii) $2½ million if the contract price is more than $5 million.

(2) If the original contract price is $5 million or less, the Government may require additional protection if the contract price is increased. The penal amount of the total protection as revised shall meet the requirement of subparagraph (b)(1) immediately above.

(3) The government shall secure additional protection by directing the Contractor to increase the penal sum of the existing bond or obtain an additional bond.

(c) The Contractor shall furnish all bonds, including any necessary reinsurance agreements, to the Contracting Officer before starting work. Performance and payment bonds shall be dated the *same date as the contract award date;* or, in the case of any additional bond protection required, the *same date as the contract modification date.*

(d) Surety companies acceptable to the Government are identified by the Department of Treasury and listed in the **Federal Register.**

(e) If the resulting contract(s) is for $25,000 or less, no bonds are required.

(End of provision)

1852.228–75 Insurance.

As prescribed in 1828.372, insert the following clause:

MINIMUM INSURANCE

COVERAGE (OCTOBER 1988)

The Contractor shall obtain and maintain insurance coverage as follows for the performance of this contract:

(a) Worker's compensation and employer's liability insurance as required by applicable Federal and state workers', compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with the Contractor's commercial operations that it would not be practical. The employer's liability coverage shall be at least $100,000, except in States with exclusive ormonopolistic funds that do not permit workers', compensation to be written by private carriers.

(b) Comprehensive general (bodily injury) liability insurance of at least $500,000 per occurrence.

(c) Motor vehicle liability insurance written on the comprehensive form of policy which provides for bodily injury and property damage liability covering the operation of all motor vehicles used in connection with performing the contract. Policies covering motor vehicles operated in the United States shall provide coverage of at least $200,000 per person and $500,000 per occurrence for bodily injury liability and $20,000 per occurrence for property, damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

(d) Comprehensive general and motor vehicle liability policies shall contain a provision worded as follows:

"The insurance company waives any right of subrogation against the United States of America which may arise by reason of any payment under the policy."

(e) When aircraft are used in connection with performing the contract, aircraft public and passenger liability insurance of at least $200,000 per person and $500,000 per occurrence for bodily injury, other than passenger liability, and $200,000 per

occurrence for property damage. Coverage for passenger liability bodily injury shall be at least $200,000 multiplied by the number of seats or passengers, whichever is greater.

(End of clause)

1852.232-22 Limitation of funds.

Substitute "Contract Funding clause" for "Schedule," wherever that word appears in FAR 52.232-22.

1852.232-81 Contract funding.

As prescribed in 1832.705-270(c), insert the following clause:

CONTRACT FUNDING

(OCTOBER 1988)

(a) For purposes of payment of cost, exclusive of fee, in accordance with the Limitation of Funds clause of this contract, the total amount allotted by the Government to this contract is $_____. The above allotment is for _____ and covers the following period of performance: _____.

(b) An additional amount of $_____ is obligated under this contract for payment of fee.

(End of clause)

1852.232-82 Submission of Requests for progress payments.

As prescribed in 1832.502-4, insert the following clause:

SUBMISSION OF REQUESTS FOR PROGRESS PAYMENTS

(OCTOBER 1988)

The Contractor shall request progress payments in accordance with the progress payments clause of this contract by submitting to the Contracting Officer an original and two (2) copies of Standard Form (SF) 1443, "Contractor's Request for Progress Payment," and the contractor's invoice (if applicable). The Contracting Officer's office is the designated billing office for progress payments for purposes of the Prompt Payment clause of this contract.

(End of clause)

1852.245-75 Title to equipment.

As prescribed in 1845.106-70(f), insert the following clause:

TITLE TO EQUIPMENT

(OCTOBER 1988)

(a) In accordance with the Government Property clause of this contract, title to equipment and other tangible personal property acquired by the Contractor with funds provided for conducting research under this contract, and having an acquisition cost less than $_____ [Insert a dollar value not less than $5,000] shall vest in the Contractor upon acquisition, provided that the Contractor has complied with the requirements of the Government Property clause of this contract.

(b) Upon completion or termination of this contract, the Contractor shall submit to the Contracting Officer a list of all equipment with an acquisition cost of $_____ [Insert the dollar value specified in paragraph (a)] or more acquired under the contract during the contract period. The list shall include a description, manufacturer and model number, date acquired, cost, and condition information, and shall be submitted within 30 calendar days after completion or termination of the contract, in accordance with Federal Acquisition Regulation 45.606-5.

(c) Title to the property specified in paragraph (b) above vests in the Contractor, but the Government retains the right to direct transfer of title to property specified in paragraph (b) above to the Government or to a third party within 180 calendar days after completion or termination of the contract. Such transfer shall not be the basis for any claim by the Contractor.

(d) Title to all Government-furnished property remains vested with the Government (see the Government Property clause).

(e) Title to the contractor-aquired property listed below shall vest with the Government.

[List any contractor-acquired property for which vesting of title with the Government is appropriate or insert "None"]

(End of clause)

1852.245-76 List of Government-furnished property.

As prescribed in 1845.106-70(g), insert the following clause:

LIST OF GOVERNMENT-FURNISHED PROPERTY

(OCTOBER 1988)

For performance of work under this contract, the Government will make available Government property identified below or in Attachment _____ [Insert attachment number or "not applicable"] of this contract on a no-charge-for-use basis. The Contractor shall use this property in the performance of this contract at _____ [Insert applicable site(s) where property will be used] and at other location(s) as may be approved by the Contracting Officer. Under the FAR 52.245 Government Property clause of this contract, the Contractor is accountable for the identified property.

Item	Quantity	Acquisition cost	Date to be furnished to the contractor

[Insert a description of the item(s), quantity, acquisition cost, and date the property will be furnished to the Contractor]

(End of clause)

1852.245-77 List of installation-provided property and services.

As prescribed in 1845.106-70(h), insert the following clause:

LIST OF INSTALLATION PROVIDED PROPERTY AND SERVICES

(OCTOBER 1988)

In accordance with clause 1852.245-71, Installation Provided Government Property, of this contract, the Contractor is authorized use of the types of property and services listed below and as available while on-site at the NASA installation.

(a) Office space, work area space and utilities. The Contractor shall use Government telephones for OFFICIAL PURPOSES ONLY. Pay telephone stations are available for the convenience and use of employees in making unofficial calls, both local and long distance.

(b) General and special purpose equipment, including office furniture.

(1) Equipment to be made available to the Contractor for use in performance of this contract on-site and at such other locations as approved by the Contracting Officer is listed in Attachment _____ [Insert Attachment number]. The Government retains accountability for this property under the Installation Provided Government Property clause, regardless of its authorized location.

(2) If the Contractor acquires property as a direct cost to this contract, the property will also become accountable to the Government upon its entry into the NASA Equipment Management System (NEMS) in accordance with the property reporting requirements of this contract.

(3) The Contractor shall not bring on-site for use under this contract any property that is owned or leased by the Contractor, or other property that the Contractor is accountable for under any other Government contract, without the Contracting Officer's prior written approval.

(c) Supplies from stores stock.

(d) Publications and blank forms stocked by the installation.

(e) Safety and fire protection for Contractor personnel and facilities.

(f) Installation service facilities: _____ [Insert the name of the facilities].

(g) Medical treatment of a first-aid nature for Contractor personnel injuries or illnesses sustained during on-site duty.

(h) Cafeteria privileges for Contractor employees during normal operating hours.

(i) Building maintenance for facilities occupied by Contractor personnel.

(j) Moving and hauling for office moves, movement of large equipment, and delivery of supplies. Moving services shall be provided on-site, as approved by the Contracting Officer.

(k) The responsibilities of the Contractor as contemplated by subparagraph (a) of the clause at 1852.245-71 are defined in the following property management directives and center supplements thereto:

(1) NHB 4200.1, NASA Equipment Management Manual.

(2) NHB 4200.2, NASA Equipment Management System (NEMS) User's Guide for Property Custodians.

(3) NHB 4300.1, NASA Personal Property Disposal Manual.

(4) NHB 4100.1, NASA Materials Inventory Management Manual.

(End of clause)

1852.245-78 Space hardware reporting.

As prescribed in 1845.106-70(i), insert the following clause.

SPACE HARDWARE REPORTING

(OCTOBER 1988)

In accordance with the Financial Reporting of Government-Owned/Contractor-Held Property clause of this contract, the reporting of space hardware is required annually on a NASA Form 1018, Report of Government-Owned/Contractor-Held Property. The reporting of space hardware is in addition to the requirements of other property reporting on the form. At present, the item(s) of space hardware to be reported are the following: *[Insert the space hardware to be reported for the particular contract].* The Contracting Officer will update this list prior to June 1 of each year to be applicable to the next reporting period.

(End of clause)

1852.245–79 Use of Government-owned property.

As prescribed in 1845.106–70(j), insert the following provision:

USE OF GOVERNMENT-OWNED PROPERTY

(OCTOBER 1988)

(a) The offeror does ( ) does not ( ) intend to use in performance of any contract awarded as a result of this solicitation existing Government-owned facilities (real property or plant equipment), special test equipment, or special tooling (including any property offered by this solicitation). The offeror shall identify any offered property not intended to be used. If the offeror does intend to use any of the above items, the offeror must furnish the following information required by Federal Acquisition Regulation 45.205(b), NASA FAR Supplement (NFS) 1845.102–70, and NFS 1845.104(b):

(1) Identification and quantity of each item. Include the item's acquisition cost if it is not property offered by this solicitation.

(2) For property not offered by this solicitation, identification of the Government contract under which the property is accountable and written permission for its use from the cognizant Contracting Officer.

(3) Amount of rent calculated in accordance with FAR 45.403, unless the property has been offered on a rent-free basis by this solicitation.

(4) The dates during which the property will be available for use, and if used in two or more contracts, the amounts of respective uses in sufficient detail to support proration of the rent. This information is not required for property offered by this solicitation.

(b) The offeror does ( ) does not ( ) request additional Government provided property for use in performing any contract awarded as a result of this solicitation. If the offeror requests additional Government provided property, the offeror must furnish the following:

(1) Identification of the property, quantity, and estimated acquisition cost of each item, and

(2) The offeror's written statement as prescribed by FAR 45.302–1(a)(4).

(c) If the offeror intends to use any Government property (paragraph (a) or (b) above), the offer must also furnish the following:

(1) The date of the last review by the Government of the offeror's property control and accounting system and actions taken to correct any deficiencies found, and the name and telephone number of the cognizant property administrator.

(2) A statement that the offeror has reviewed, understands, and can comply with all property management and accounting procedures in the solicitation, FAR Subpart 45.5, and NFS Subparts 1845.5, 1845.70, and 1845.71.

(3) A statement indicating whether or not the costs associated with subparagraph (c)(2) above, including plant clearance and/or plant reconversion costs, are included in its cost proposal.

(End of provision)

1852.245–80 Use of Government production and research property on a no-charge basis.

As prescribed in 1845.106–70(k), insert the following clause:

USE OF GOVERNMENT PRODUCTION AND RESEARCH PROPERTY ON A NO-CHARGE BASIS

(OCTOBER 1988)

The Contractor is authorized to use on a no-charge, noninterference basis in performing this contract the Government-owned production and research property provided to the Contractor under the contract(s) specified below and identified in the cognizant Contracting Officer's letter approving use of the property. Use is authorized on the basis that it will not interfere with performance of the Government contract(s) under which the property was originally furnished. Use shall be in accordance with the terms and conditions of such contract(s) and the cognizant Contracting Officer's approval letter.

Contract No(s): [Insert the contract number(s) under which the Government property is accountable].

(End of clause)

1852.246–70 Space Transportation System (STS) Personnel Reliability Program.

As prescribed in 1846.270(a), insert the following clause:

SPACE TRANSPORTATION SYSTEM (STS) PERSONNEL RELIABILITY PROGRAM

(OCTOBER 1988)

(a) In implementation of the STS Personnel Reliability Program described in NASA Management Instruction (NMI) 8610.13, the Government will identify personnel positions that are mission critical. Some of the positions as identified may now or in the future be held by employees of the Contractor. Upon notification by the Contracting Officer that a mission critical position is being or will be filled by one or more of the Contractor's employees, the Contractor shall provide the affected employees with a clear understanding of the investigative and medical requirements and, to the extent permitted by applicable law, will assist the Government by furnishing personal data and medical records.

(b) The standard that will be used in certifying individuals for mission critical positions will be that such individuals must be determined to be competent and reliable in the performance of their assigned duties in accordance with the screening requirements of the NMI. In the event that the Government determines that an employee occupying or nominated to occupy a mission critical position will not be certified for such duty, the Contracting Officer shall furnish to the Contractor employee the specific reasons for its action; and the Government will further advise the employee that he/she may avail himself/herself of the review procedures that are a part of the certification system and furnish him/her a copy of those procedures.

(c) If a Contractor employee, who has been nominated for (but has not yet filled) a mission critical position, is not certified, the Contractor agrees to defer the appointment to the position until the employee has had an opportunity to pursue the referenced procedures. If the employee is an incumbent to the position, the Contractor agrees, upon the request of the Government, to temporarily remove him/her from the position pending an appeal of the action under the applicable review procedures. If any employee not certified elects not to take action under the procedure, or, if having taken action, is not successful in obtaining a reversal of the determination, the Contractor agrees not to appoint the employee to the position, or if already appointed, to promptly remove the employee.

(End of clause)

1852.246–71 Government contract quality assurance.

As prescribed in 1846.470, insert the following clause:

GOVERNMENT CONTRACT QUALITY ASSURANCE FUNCTIONS

(OCTOBER 1988)

In accordance with the Inspection clause of this contract, the Government intends to perform the following functions at the locations indicated:

Quality assurance		
Item	Function	Location

[Insert the items involving quality assurance, the quality assurance functions, and where the functions will be performed]

(End of clause)

1852.246–72 Material Inspection and Receiving Report.

As prescribed in 1846.674, insert the following clause:

MATERIAL INSPECTION AND RECEIVING REPORT

(OCTOBER 1988)

(a) At the time of each delivery under this contract, the Contractor shall furnish to the Government a Material Inspection and Receiving Report (DD Form 250 series)

prepared in ___ [Insert number of copies, including original] copies, an original and ___ copies [Insert number of copies].

(b) The Contractor shall prepare the DD Form 250 in accordance with NASA FAR Supplement 1846.672-1. The Contractor shall enclose the copies of the DD Form 250 in the package or seal them in a waterproof envelope which shall be securely attached to the exterior of the package in the most protected location.

(c) When more than one package is involved in a shipment, the Contractor shall list on the DD Form 250, as additional information, the quantity of packages and the package numbers. The Contractor shall forward the DD Form 250 with the lowest numbered package of the shipment and print the words "CONTAINS DD FORM 250" on the package.

(End of clause)

1852.246-73 Manned space flight item

As prescribed in 1846.270(b), insert the following clause.

MANNED SPACE FLIGHT ITEM

(OCTOBER 1988)

The Contractor shall include the following statement in all subcontracts and purchase orders placed by it in support of this contract, without exception as to amount or subcontractual level. FOR USE IN MANNED SPACE FLIGHT; MATERIALS, MANUFACTURING, AND WORKMANSHIP OF HIGHEST QUALITY STANDARDS ARE ESSENTIAL TO ASTRONAUT SAFETY.

IF YOU ARE ABLE TO SUPPLY THE DESIRED ITEM WITH A HIGHER QUALITY THAN THAT OF THE ITEMS SPECIFIED OR PROPOSED, YOU ARE REQUESTED TO BRING THIS FACT TO THE IMMEDIATE ATTENTION OF THE PURCHASER.

(End of Clause)

1852.247-72 Advance notice of shipment.

As prescribed in 1847.305-70(b), insert the following clause:

ADVANCE NOTICE OF SHIPMENT

(OCTOBER 1988)

___ [Insert number of work days] work days prior to shipping item(s) _____ [Insert items to be shipped], the Contractor shall furnish the anticipated shipment date, bill of lading number (if applicable), and carrier identity to _____ [Insert individual(s) to receive notification] and to the Contracting Officer.

(End of clause)

1852.247-73 Shipment by Government bills of lading.

As prescribed in 1847.305-70(c), insert the following clause:

SHIPMENT BY GOVERNMENT BILLS OF LADING

(OCTOBER 1988)

(a) The Contractor shall ship items deliverable under this contract, where the transportation cost per shipment exceeds $100, by Government bills of lading. At least fifteen (15) days prior to the date of shipment, the Contractor shall request in writing Government Bills of Lading (GBL's) from: [Insert name, title, and mailing address of designated transportation officer or other official delegated responsibility for GBL's]. If time is limited, requests may be by telephone: [Insert appropriate telephone number]. Such requests for GBL's shall include the following information.

(1) Item identification/ description.
(2) Origin and destination.
(3) Individual and total weights.
(4) Dimensions and total cubic feet.
(5) Total number of pieces.
(6) Total dollar value.
(7) Other pertinent data.

(b) The Contractor shall prepay transportation charges of $100 or less per shipment. The Government shall reimburse the contractor for these charges if they are added to the invoice as a separate line item supported by the paid freight receipts. If paid receipts in support of the invoice are not obtainable, a certificate as described below must be completed, signed by an authorized company representative, and attached to the invoice.

"I certify that the shipments identified below have been made, transportation charges have been paid by (company name), and paid freight or comparable receipts in support thereof are not obtainable."

Contract or Order Number:— _____

Destination:— _____

(End of clause)

1852.250-70 [Amended]

b. In 1852.250-70, the date "(MAY 1987)" is revised to read "(OCTOBER 1988);" in paragraph (a)(3), a semicolon is added after the word "profit;" and in paragraph (b)(1)(ii), a semicolon is added after the word "Contractor".

1852.250-71 [Amended]

c. In 1852.250-71, the date "(OCTOBER 1984)" is revised to read "(OCTOBER 1988)," and in paragraph (b)(1)(ii), a semicolon is added after the word "Contractor".

23. Part 1870 is amended by adding Subpart 1870.3, consisting of 1870.301, 1870.302, and 1870.303, to read as follows:

Subpart 1870.3—NASA Source Evaluation

1870.301 Purpose.
1870.302 Regulations.
1870.303 Source Evaluation Board procedures.

Appendix I to 1870.303—NASA Source Evaluation Board procedures (Handbook).

Subpart 1870.3—NASA Source Evaluation

1870.301 Purpose.

The acquisition of goods and services is among the most important activities that NASA performs and demands the agency's best management efforts. Therefore, the source evaluation and selection procedures must emphasize the application of sound judgment to the problems of source evaluation and assure that Source Evaluation Boards (SEB) conduct their activities impartially and efficiently in ways which will effectively accomplish the source evaluation task.

1870.302 Regulations.

The basic regulations governing source selection using the SEB process appear at 1815.613-71. Detailed operating instructions and procedures for the evaluation and negotiation of procurements by Source Evaluation Boards appear at 1870.303. These instructions provide general and specific policies and procedures for SEB's evaluating offerors' proposals and related capabilities. They are designed for use by procurement personnel and by the wide range of individuals who participate in the SEB process. The instructions will also be of help to the public in understanding NASA's source selection policies and procedures.

1870.303 Source Evaluation Board Procedures.

(a) The SEB instruction is prescribed by Appendix I to this section 1870.303.

(b) NASA may reprint Appendix I as a separate document, which may be referred to as the NASA Source Evaluation Board Handbook, for sale and/or distribution provided the following conditions are met:

(1) The issuance date ("cover date") of the Handbook shall be the date of the NASA FAR Supplement version from which the text is extracted.

(2) With the exception of availability, distribution and other special prefatory notices, any subsequent modification in the text shall be preceded by a change to the NASA FAR Supplement 1870.303, Appendix I.

(3) The following notice shall be included in the prefatory material of the Handbook:

IMPORTANT NOTICE

This Handbook is a separately bound, verbatim version of NASA FAR Supplement (NFS) (48 CFR 1870.303) section 1870.303, Appendix I. Reference to other parts of the Federal Acquisition Regulation (FAR) and the NFS will be required for complete coverage of all procurement aspects. NASA reserves the right to make changes to NFS 1870.303, Appendix I, without issuing a new edition of this Handbook. Any such changes will be published in the **Federal Register**; however, it is anticipated that such changes will be rare, unless mandated by statute or unusual circumstances. In the event of apparent conflict between this Handbook and the NFS, the NFS shall govern.

APPENDIX I TO 1870.303—NASA SOURCE EVALUATION BOARD PROCEDURES (HANDBOOK)

Appendix I to 1870.303—NASA Source Evaluation Board Handbook

Preface

The acquisition of goods and services is among the most important activities that NASA performs and demands our best management efforts. The acquisition system we use must be such that individuals performing within it are challenged to high standards of performance because they know that their efforts contribute to and form part of the Government's decision-making process.

The source evaluation and selection process covered by this handbook exemplifies our efforts to emphasize the application of sound judgment to the problems of source evaluation. In addition, the handbook emphasizes the responsibility which line and staff management retains to assure that Source Evaluation Boards (SEB's) conduct their activities impartially and efficiently in ways which will effectively accomplish the source evaluation task.

The process provides for an equitable and comprehensive evaluation of offerors' proposals to assist the Source Selection Official (SSO) in selecting the source(s) whose proposal(s) presents the highest probability of quality performance to best meet NASA's requirements at a realistic cost/price. This handbook provides guidance and general and specific policies and procedures for SEB's evaluating offerors' proposals and related capabilities in negotiated procurements. Its intention is to encourage the exercise of sound judgment in the many important aspects of the process. SEB's are expected to apply common sense in determining appropriate variations and adaptations necessary in individual situations, provided that these do not constitute a departure from basic concepts and intent. Substantive deviations may be authorized only by the Assistant Administrator for Procurement.

While this handbook is intended primarily for NASA use, it is also available to the public so that NASA's source selection policies and procedures can be understood by all participants in the process.

The provisions of this handbook are applicable to all elements of NASA and are to be implemented on any Request for Proposal (RFP) subject to evaluation by an SEB and issued on or after October 1, 1988. The source selection policies and procedures set forth in this handbook are to be implemented in accordance with the Federal Acquisition Regulation (FAR) 15.6 and NASA/FAR Supplement (NFS) 1815.613. However, the procedures in this handbook may be used in any other competitively negotiated procurement where the SSO determines it desirable to do so.

NASA SOURCE EVALUATION BOARD HANDBOOK

Table of Contents

Chapter 1: Key Participants in the Source Evaluation Board Process

100 Introduction

This Chapter describes the role of key participants in the Source Evaluation Board, (SEB) process, including cognizant line and staff management, the Source Evaluation Board and the Source Selection Official.

101 Cognizant Management Responsibilities

The SEB process described in this handbook shall be used for major procurements as defined by NFS 1815.613-71(a). The process is used to accomplish and document the source evaluation and selection function.

2. Upon request of the cognizant Installation Procurement Officer, as a part of the Master Buy Plan procedure, the Assistant Administrator for Procurement or an appropriate designee may consider streamlining these source selection procedures for a particular procurement. This decision, granting a deviation to the formal SEB process, will be communicated to the cognizant Procurement Officer as a part of the written response to the installation regarding the Master Buy Plan submission. Requests for use of streamlined procedures may also be submitted independent of the Master Buy Plan procedure.

3. When the SEB process is determined to be applicable in accordance with the NFS, the specific SEB procedures detailed in this handbook are employed to—

a. Prepare a solicitation that accurately conveys to offerors the technical, schedule, cost, and other contractual requirements of the procurement;

b. Ensure equitable and comprehensive evaluation of the competitors, proposals;

c. Ensure fairness and freedom from outside influence throughout the process;

d. Ensure selection of the source(s) whose performance can be expected to be most advantageous to the Government with respect to the Mission Suitability, Cost, Relevant Experience and Past Performance, and Other Considerations factors considered; and

e. Protect the business confidential and proprietary information contained in proposals submitted to the Government for evaluation.

4. Appropriate cognizant line and staff management shall—

a. Establish each SEB with fully qualified Government personnel possessing broad experience and the professional skills and knowledge required for proper evaluation and assessment of offerors' proposals;

b. Ensure all personnel assigned to the SEB are unencumbered by other assignments which compete with SEB activities and, further, ensure that personnel assigned to the SEB are officially appointed to the activity for the duration of the SEB;

c. Ensure the SEB is provided all current NASA policies and procedures relevant to SEB operation;

d. Ensure acquisition strategy and planning objectives are achieved as reflected in the acquisition's requirements;

e. Ensure the SEB works in harmony with the needs and objectives of the requiring activity;

f. Concur in the substance and weight of evaluation factors, subfactors, and elements;

g. Ensure the RFP is complete, clear, and consistent with agency objectives and with the needs of the activity requiring the procurement, that the procedures for evaluation and selection are clearly set forth, and that the offeror is not burdened with unnecessary requests for data not pertinent to source selection;

h. Ensure appropriate actions are taken, consistent with the FAR and NFS, to obtain full and open competition in the selection process, or to obtain appropriate approvals for exceptions;

i. Establish an SEB advisory group or individual at the field installation to ensure proper source selection procedures are employed; and

j. Ensure an environment exists in which evaluation and selection activities can be effectively conducted.

5. For purposes of this handbook, in cases where the SSO is at the Headquarters level, "cognizant line and staff management, "as addressed in subparagraph 4, includes—

a. The NASA Acquisition Executive for systems designated as major acquisitions under NMI 7100.14, "Major System Acquisitions";

b. Officials-in-Charge of the cognizant Headquarters Program and Headquarters Offices or their Deputies. (See NMI 1101.2, "NASA Organization and Definition of Terms.");

c. The cognizant Field Installation Director and Deputy/ Associate Director;

d. The Field Installation Project Manager;

e. The Assistant Administrator for Procurement;

f. The General Counsel and/or Associate General Counsel (Contracts);

g. The Associate Administrator for Safety, Reliability, Maintainability, and Quality Assurance (SRM&QA);

h. The Field Installation Principal Official-in-Charge of Administration, when such a position exists;

i. The Field Installation Chief Counsel; and

j. The Field Installation Procurement Officer.

6. When the Administrator or an Official-in-Charge of a Headquarters Office is the SSO, selected cognizant line and staff management, including the General Counsel or designee and the Assistant Administrator for Procurement, will advise the SSO in executive session, at the conclusion of the presentation of the SEB report, regarding their views concerning the SEB's findings. Management personnel are encouraged to seek the advice of the General Counsel, the Assistant Administrator for Procurement, and any other responsible Headquarters official regarding any SEB–level procurement problem where their participation would be helpful in the conduct of the SEB process.

102 *Source Selection Official*

1. The SSO is the senior agency official responsible on a particular procurement for proper and efficient conduct of the source selection process and for making the final source selection decision. It is the SSO's responsibility to decide which of the proposals submitted in response to the solicitation would prove most advantageous to the Government, all RFP evaluation factors considered. The decision must reflect the SSO's determination of relative quality and suitability of what is proposed by each offeror in light of the Government's stated requirements and the confidence level associated with the offeror's ability to accomplish what is proposed. This includes an assessment of the probable cost of each proposal in the competitive range. Trade-off judgments may be required among the evaluation factors (Mission Suitability, Cost, Relevant Experience and Past Performance, and Other Considerations). For procurements designated as Headquarters selections, the SSO will be identified as a part of the Master Buy Plan process. For field installation selections, the Field Installation Director will serve as the SSO.

2. The SSO will—

a. Approve the substance and weight of evaluation factors, subfactors, and elements prior to release of the RFP, or delegate this responsibility to appropriate management personnel;

b. Appoint the SEB Chairperson and members, both voting and nonvoting, except when the Administrator will serve as the SSO, in which case the Official-in-Charge of the cognizant Headquarters Program Office will appoint the SEB Chairperson and members;

c. Provide the SEB with appropriate guidance and special instructions to conduct the evaluation and selection procedures; and

d. Make the final selection decision. Selection for final negotiations will be based on an integrated assessment of each offeror's proposal, taking into consideration the SEB's report and advice from senior officials.

103 *Source Evaluation Board*

1. The solicitation, receipt, and evaluation of proposals will be implemented by the SEB in accordance with the procedures outlined in this handbook. It is paramount that the SEB's evaluation not be influenced by persons outside the SEB process, whether or not such persons are NASA employees. The SEB is established with special status and shall be staffed with competent people fully qualified to identify the strengths, weaknesses, and risks associated with proposals submitted in response to the Government solicitation. The SEB assists the SSO in decision making by providing expert analyses of the offerors' proposals in relation to the evaluation factors, subfactors, and elements contained in the solicitation.

2. In particular, the SEB shall—

a. Conduct an in-depth review and evaluation of each proposal against the solicitation requirements and the approved evaluation factors, subfactors, and elements;

b. Provide an integrated assessment of each offeror's probable performance relative to the evaluation factors, subfactors, and elements contained in the solicitation related to Mission Suitability;

c. Perform cost analysis by reviewing and analyzing each offeror's proposed costs by individual cost element to determine the validity and reasonableness of the proposed costs. Perform price analysis by comparing each offeror's proposed price (when it is feasible to do so) against the independent Government cost estimate and/or prior experience and knowledge regarding similar efforts to assist in determination of a fair and reasonable price. Develop a probable cost for each proposal within the competitive range;

d. Evaluate the relevant experience and past performance of each offeror, including the relevant experience and past performance of proposed subcontractors intended to perform a major role in accomplishment of procurement objectives or to participate in a substantive manner;

e. Evaluate proposals under the Other Considerations factor included in the RFP and present the analysis of that factor as reflected in each offeror's proposal;

f. Ensure proper SEB procedures are implemented, including those necessary to prevent disclosure of source selection data;

g. Prepare and present the SEB report which accurately and clearly reflects the findings of the SEB.

NOTE: The SEB is not to make recommendations for selection to the SSO. The SEB reports its findings, avoiding trade-off judgments among either the individual offerors or among the Mission Suitability, Cost, Relevant Experience and Past Performance, and Other Considerations evaluation factors.

Chapter 2: Membership, Organization, and Responsibilities

200 General

This Chapter sets forth NASA policy on membership, organization, and responsibilities of SEB's.

201 Membership

1. Composition

a. SEB's shall be comprised of qualified management, technical, scientific, contracting, and business experts including, where appropriate, SRM&QA representatives. Each SEB shall have a legal advisor.

b. While in general the SEB Chairperson, SEB members, and committee members are drawn from the cognizant installation, personnel from other NASA installations or other Government agencies may be used when their services are required in a particular area of expertise and would significantly contribute to the evaluation of proposals.

c. It is NASA policy to have proposals evaluated by the most competent technical and management sources available in NASA and the Jet Propulsion Laboratory (JPL). All personnel participating in evaluation proceedings shall be instructed to observe the restrictions in the FAR and NFS regarding personal conflicts of interest and the disclosure of information concerning the evaluation. Non-NASA personnel shall not serve as voting members of a NASA SEB.

d. In evaluating a proposal, the SEB may find that it is necessary to disclose the proposal (in whole or in part) outside the Government to meet its evaluation needs. When it is clearly necessary to disclose the proposal (in whole or in part) outside the Government, arrangements shall be made in accordance with NFS 1815.413–2.

e. It is desirable that voting members of the SEB include people who will have key assignments on the project to which the procurement is directed. However, it is important that this should be tempered to ensure objectivity and to avoid an improper balance. It may even be appropriate to designate a management official from outside the project as SEB Chairperson.

f. SEB membership normally need not exceed seven voting members, including the

Chairperson. If additional support is needed, the use of committees and panels is authorized. The number of such supporting personnel shall be kept as small as the nature of the subject matter permits. Wherever feasible, an assignment to SEB membership as a voting member shall be on a full-time basis. Where this is not feasible, SEB membership and duties are to take precedence over other duties.

g. The number of nonvoting ex officio (advisory) members shall be kept as small as the nature of the procurement allows. Ex officio members should be selected for the experience and expertise they can provide to the SEB. Since their advisory role may require access to highly sensitive SEB material and findings, ex officio membership for persons other than those identified in paragraph 3b should be carefully considered.

2. Designation

a. Designation of the SEB Chairperson and members, both voting and nonvoting, shall be by the SSO except when the Administrator will serve as the SSO, in which case the designation shall be by the Official-in-Charge of the cognizant Headquarters Program Office. The designation letter will be addressed to the cognizant Field Installation Director when the SSO is at the Headquarters level or to the SEB Chairperson when the SSO is the Field Installation Director. The letter shall be prepared in accordance with the sample letter in Appendix A and forwarded for signature to the SSO or the cognizant Official-in-Charge of the Headquarters Program Office early in the procurement cycle, but not later than coordination and approval of the procurement plan. Prior to signature, concurrence by the Headquarters Office of Procurement (Code HS) is required when the SSO is at the Headquarters level or by the cognizant Field Installation Procurement Officer when the SSO is the Field Installation Director.

b. When the Administrator or the Official-in-Charge of the cognizant Headquarters Program Office is the SSO, résumés of voting members shall be provided along with the proposed designation letter. These résumés shall include functional title, grade level and related SEB experience.

3. Voting and Nonvoting Members

a. The following people shall be on all SEB's and designated as voting members:

(1) Chairperson.

(2) A senior, key technical representative for the project.

(3) An experienced procurement representative.

(4) A senior SRM&QA representative, as appropriate.

(5) Committee chairpersons (except where this imposes an undue workload).

All voting members of the SEB shall have equal status as rating officials.

b. The following people shall be on all SEB's as nonvoting ex officio members:

(1) Assistant Administrator for Procurement and designee from the Program Operations Division (Code HS) when either an Official-in-Charge of a Headquarters Program Office or the Administrator is the SSO.

(2) General Counsel and/or the Associate General Counsel (Contracts) when either an Official-in-Charge of a Headquarters Program Office or the Administrator is the SSO.

(3) Associate Administrator for Safety, Reliability, Maintainability, and Quality Assurance or designee when either an Official-in-Charge of a Headquarters Program Office or the Administrator is the SSO.

(4) Director of the cognizant Field Installation or designee when either an Official-in-Charge of a Headquarters Program Office or the Administrator is the SSO.

(5) Cognizant Program Director or designee when an Official-in-Charge of a Headquarters Program Office is the SSO.

(6) Official-in-Charge of the cognizant Headquarters Program Office or a designee when the Administrator is the SSO.

(7) Chairpersons of SEB committees when they are non-voting members.

(8) The Procurement Officer of the installation, unless designated a voting member.

(9) The contracting officer responsible for the procurement, unless designated a voting member.

(10) The Chief Counsel and/or designee of the installation.

(11) The SEB recorder.

c. The Assistant Administrator for Procurement, the Code HS Director and cognizant procurement analyst, and the Associate General Counsel (Contracts) have access to all SEB activity by virtue of their positions in the agency.

d. The Associate General Counsel (Contracts) will assign legal advisors to Headquarters SEB's. The installation Chief Counsels will assign legal advisors to SEB's at their installations. The assigned advisor will provide legal advice and counsel on all matters pertaining to the procurement. Upon appointment of the SEB, the Associate General Counsel (Contracts) or designee, or Chief Counsel or designee, as appropriate, will brief SEB personnel on required standards of conduct.

e. Nonvoting ex officio members may state their views and contribute to the discussions in SEB deliberations, but they may not participate in the actual rating process. However, the SEB recorder should be present during rating sessions. The Chairperson is responsible for determining appropriate attendance at SEB meetings and is encouraged to seek the advice and counsel of nonvoting ex officio members whenever necessary without convening a special meeting.

202 *Organization*

The organization of an SEB is tailored to the requirements of the particular procurement. This can range from the simplest situation, where the SEB conducts the evaluation and fact-finding without the use of committees or panels, to a highly complex situation involving a major acquisition where two or more committees are formed and these, in turn, are assisted by special panels in particular areas. Appropriate organization somewhere between these two extremes is generally expected but in all cases the number of committees or panels should be kept to a minimum consistent with the requirements of the procurement.

203 *Responsibilities*

1. The SEB is the central group in the source evaluation process. Its function is to carry out the activities set forth in this handbook, culminating in final evaluation of all proposals and its report to the SSO. The SEB's evaluation is based on all available information, including proposals, committee and panel reports, written and/or oral discussions, personal knowledge of the members in the area of experience and past performance, and other appropriate reference checks. Subject to reviews by the SSO and cognizant management personnel as may be required, the SEB establishes evaluation factors, subfactors, elements and their relative importance; generates qualification standards (where applicable); and reviews and approves the RFP prior to issuance. The SEB reviews offeror satisfaction of applicable qualification standards, if any, and makes an identification of unacceptable proposals. It provides an initial evaluation of acceptable proposals sufficient for determination of the competitive range and participates in written and/or oral discussions held with all offerors in the competitive range. The SEB shall not delegate its evaluation responsibility in whole or in part. Findings of committees or panels must be reviewed by the SEB, with its own collective judgment being applied in arriving at the SEB evaluation findings reported to the SSO.

2. The SEB Chairperson is the principal operating executive of the SEB. This carries with it a responsibility broader in scope and including more requirements for coordination across more different specialized disciplines and through more diverse management channels than is expected in most management situations. The Chairperson is expected to manage the team efficiently without compromising the validity of the findings provided to the SSO as the basis for a sound selection decision.

3. The SEB Recorder functions as the principal administrative assistant to the SEB Chairperson. The duties and responsibilities of the position are as follows:

a. Attends all SEB meetings and serves as principal assistant to the SEB Chairperson.

b. Obtains secure work areas for conduct of SEB activity and develops and implements procedures for controlling access and safeguarding SEB proceedings and documentation.

c. Obtains materials, supplies, and equipment needed by the SEB.

d. Arranges for preparation, reproduction, control, and distribution of material relating to the activity of the SEB and its committees.

e. Prepares and distributes the agenda for SEB meetings.

f. Obtains and distributes current applicable procedures, policies, and instructions to the SEB and committee members and others involved.

g. Records the substantive issues discussed.

h. Follows up on action items assigned to SEB members to ensure no delays in the SEB schedule will occur.

i. Obtains the SEB Chairperson's approval of SEB minutes. Provides copies to all voting SEB members and/or nonvoting members, as directed by the SEB Chairperson. Retains the original copy of the minutes and incorporates them into an official record book.

j. Assists in preparation and assembly of the SEB's report of findings and presentation charts and arranges for reproduction and distribution.

k. Destroys all duplicate material in excess of the SEB's need or retains material, as defined by the contracting officer, the SEB, and/or the SSO.

l. After formal selection announcement, accumulates, packages, and forwards documentation pertinent to the SEB's work to the cognizant contracting officer for retention throughout the life of the contract.

m. At the conclusion of all SEB activity, surveys the area where SEB activity occurred and arranges for the return of equipment and materials, as appropriate.

4. An SEB Committee functions as a fact-finding arm of the SEB, usually in a broad grouping of related disciplines (e.g., technical or management). It is comprised of people well-versed and experienced in each of the major disciplines under its aegis. For example, a "Management Committee" could include experts in such areas as organization, pricing, personnel, labor, contracting, and facilities operation. The committee examines in detail each proposal, or portion thereof, assigned by the SEB. It evaluates such proposals or excerpts in accordance with the approved evaluation factors, subfactors, and elements and submits a written report to the SEB summarizing its evaluation. The committee will also respond to requirements assigned by the SEB, including further justification or reconsideration of its findings.

5. Committee chairpersons shall, with respect to their committees, exercise the same responsibility for administrative and procedural matters as does the SEB Chairperson for the SEB.

6. An SEB panel functions as a fact-finding arm of the committee in a specialized area of the committee's responsibilities. Panels are established when a particular area requires deeper analysis than can be provided by individual members of the committee.

7. a. All personnel involved in SEB activities are responsible for complying with the requirements of this handbook and other applicable regulations. Accordingly, they are advised to seek counsel and guidance from appropriate personnel, such as: the SEB Chairperson, the SEB procurement voting member, the contracting officer and/or the SEB legal advisor as well as any cognizant installation SEB advisory group with respect to any questions concerning compliance with these requirements. The Chairperson shall require each SEB, committee, and panel member to be familiar with the provisions of NHB 1900.1, "Standards of Conduct for NASA Employees," regarding conflict of interest and to inform the Chairperson in writing if, in the opinion of the member, their participation presents a real or apparent conflict of interest. In addition, the SEB Chairperson shall ensure that each SEB, committee and panel member has filed a completed NASA Form 1270, "Confidential Statement of Employment and Financial Interests." Code HS procurement analysts will comply with the necessary disclosure requirements and will sign the necessary certificates on an annual basis to cover all SEB activities that the analyst may participate in throughout the year. Completed NASA Form 1270's from Code HS personnel will be generated and reviewed at the Headquarters level and will remain on file in the Office of General Counsel.

b. Prior to selection and announcement of an offeror for final negotiations, NASA personnel shall not reveal any information concerning the evaluation to anyone not participating in the same evaluation proceedings and then only to the extent such information is required by such proceedings and approved by the SSO or designee.

c. Subsequent to selection and announcement of an offeror for final negotiations, information concerning SEB proceedings and data will be made available to others within NASA only when the requester demonstrates a need to know for a NASA purpose. Information will be made available to persons outside NASA, including other Government agencies, only when such disclosure is concurred in by the Office of General Counsel. Title 18, U.S. Code, Section 1905, prohibits any officer or employee of the United States from disclosing or divulging certain kinds of business confidential and trade secret information unless authorized by law. Possible penalties upon conviction include imprisonment of up to 1 year, a fine of not more than $1,000, and removal from the Federal Service.

300 *General*

1. This Chapter describes the factors, subfactors, and elements used in evaluation of proposals and discusses the manner in which the SEB will develop, describe, and structure such factors, subfactors, and elements.

2. The SEB's responsibility is to provide analysis of proposals to aid the SSO in selecting the offeror(s) who best meets the Government's requirements at a reasonable cost.

3. In making a selection, the SSO normally considers four evaluation factors: a. Mission Suitability (which reflects how well the offerors can be expected to perform the work from a technical and management perspective); b. Cost (which reflects what it will probably cost the Government to do business with the offerors); c. Relevant Experience and Past Performance (which reflects the amount and quality of previous work accomplished by the offerors comparable to the work to be performed under the procurement being evaluated); and d. Other Considerations (which are those considerations, stated in the RFP, other than Mission Suitability, Cost, and Relevant Experience and Past Performance that can affect contract performance).

4. Performing the proposed work properly (Mission Suitability) is always important, and so is the probable cost of performing that work. Probable cost is not necessarily the offeror's estimate of costs; rather, it is the SEB's assessment of what the proposed work is likely to cost. Depending on circumstances, relevant experience and past performance or other considerations may or may not be of prime importance.

5. The SEB evaluates proposals with respect to the four evaluation factors, as follows:

a. *Mission Suitability.* This factor indicates, for each offeror, the merit or excellence of the work to be performed or product to be delivered. It includes, as appropriate, both technical and management subfactors. Because this factor can be highly technical and must be integrated in order to convey an overall evaluation of relative merit, Mission Suitability and its supporting subfactors shall be numerically weighted and scored. Elements may or may not be numerically weighted and scored.

b. *Cost.* This factor evaluates what each offeror's proposal will probably cost the Government should it be selected for negotiations leading to award. Proposed costs are analyzed to determine the probable "cost of doing business" based upon the offeror's proposed approach. Further, this analysis identifies and assesses the impact of features that cause a proposal to cost more or less than other proposals. (See paragraph 302 for detailed coverage.) Cost is not numerically weighted or scored.

c. *Relevant Experience and Past Performance.* This factor indicates the relevant quantitative and qualitative aspects of each offeror's record of performing services or delivering products similar in size, content, and complexity to the requirements of the instant procurement. The Relevant Experience and Past Performance factor provides an opportunity to evaluate the quality of goods and services provided by the offeror(s) to the agency and other Government organizations. The agency has acquired a substantial amount of firsthand experience and past performance data over a variety of program and contract efforts. Evaluation of this factor also utilizes relevant experience and past performance data from programs acquired by other Governmental organizations, covering both prime and subcontractor performance. The Relevant Experience and Past Performance factor is not numerically weighted or scored.

d. *Other Considerations.* This factor includes those considerations other than Mission Suitability, Cost, and Relevant Experience and Past Performance. They include, but are not limited to, such items as: financial condition, labor relations considerations, small and small disadvantaged business considerations, and geographic distribution of subcontracts. Other Considerations is not numerically weighted or scored.

6. Mission Suitability is the only factor which is numerically weighted (normally 1,000 points) and scored. Further, each Mission Suitability subfactor is numerically weighted and scored. The sum of the subfactor weights will total the weight of the Mission Suitability factor. A subfactor may, at the discretion of the SEB, be divided into discrete elements which, in total, comprise the subfactor evaluation area. If deemed conducive to the evaluation process, the SEB may weigh and score individual elements of a subfactor. The sum of the weights of the

individual elements will equal the weight of the subfactor.

7. The general format for inclusion of the factors, subfactors, and elements in the RFP are:

a. Factor (numerically scored)—Mission Suitability Grouping/Category (not numerically scored)—i.e., Technical or Management (optional)

(1) Subfactor (numerically scored)

(2) Subfactor (numerically scored)

(3) Subfactor (numerically scored) Element (optional). May or may not be numerically scored.

b. Factor (not numerically scored)—Cost

c. Factor (not numerically scored)—Relevant Experience and Past Performance

d. Factor (not numerically scored)—Other Considerations

301 Mission Suitability

1. Evaluation subfactors

a. Evaluation subfactors are the weighted areas within the Mission Suitability factor that further identify, for proposal preparation and evaluation purposes, the content of the factor. Examples of Mission Suitability subfactors found by experience to be relevant to many procurements are: Understanding of the Requirement; Management Plan; Key Personnel; Corporate or Company Resources; and Excellence of Proposed Design for hardware procurements. However, citation of these specific subfactors is not intended to be restrictive or all inclusive. The nature and thrust of the requirements and objectives of the procurement may logically call for the use of some subfactors titled and described in a somewhat different manner than those described below:

(1) *Understanding of the Requirement.* An offeror's proposal reflects how well the offeror comprehends the work and the data requirements. The offeror's proposal should be examined and analyzed to evaluate the offeror's understanding of the requirements set forth in the RFP. Understanding of the requirement can be evaluated as a separate subfactor or can be evaluated as an element to be considered as a part of the evaluation of each subfactor. Although costs are analyzed separately from Mission Suitability, they may be significant in indicating an offeror's understanding of the resources, human and material, required for performance of the contract. Accordingly, technical personnel assigned to committees or panels, in evaluation of the Mission Suitability factor pursuant to the weighted subfactors and elements, may be given access to the cost proposals or portions of the cost proposals to help determine the offeror's understanding of the requirements of the RFP. Such cost information may also help them to assess the validity of the offeror's approach to performing the work in accordance with the requirements. Cost realism, or the lack thereof, should enter into the SEB's assessment of the measure of understanding possessed by each offeror. Normally this would entail a consideration of cost realism in the evaluation of all subfactors and elements wherein understanding is an essential concept. Similarly, an offeror's justification or rationale for proposed costs can give insight into how well the work to be performed is understood.

(2) Management Plan

(a) The offeror's management plan sets forth the offeror's approach for efficiently managing the work as demonstrated by the proposed organization, the recognition of essential management functions, and the effective overall integration of these functions.

(b) The management plan describes the project organization proposed for the work, including internal operations and lines of authority, together with external interfaces and relationships with the Government, major subcontractors, and associate contractors. When properly prepared, the authority of the project manager, the project manager's relationship to the next echelon of management, and the project manager's command of company resources can be ascertained from the management plan. Likewise, the management plan provides schedules necessary for the logical and timely pursuit of the work, accompanied by a description of the offeror's work plan.

(3) *Excellence of Proposed Design.* In hardware acquisition, design of the product is generally a major aspect of competition. In order to arrive at an informed judgment, the SSO may require the SEB's evaluation of the merits of competing designs in relationship to the stated requirement. In evaluating the proposed designs, the SEB should consider the resources required to perform the work inherent in the differing designs. Evaluation of design may extend to whatever subsystem level is deemed appropriate by the SEB and may include producibility, reliability, maintainability, and, as applicable, warranties.

(4) Key Personnel

(a) Thorough evaluation of proposed key personnel is usually one of the most vital aspects of SEB activity.

(b) Experience demonstrates that the qualifications and performance of a few people—the top half-dozen or so directly involved managers—are extremely important to successful accomplishment of a contract. For evaluation purposes, the SEB may designate a separate subfactor entitled "Key Personnel." The SEB may define the number and identity of the key personnel for each offeror in the solicitation or may, subject to such limitations as the SEB deems appropriate to assure a reasonable basis for comparison, permit each offeror to define its own key personnel consistent with its proposed organization.

(c) Written resumes should be the baseline from which the evaluation of key personnel begins. Personal reference checks with people knowledgeable of an individual's training, experience, and performance constitute part of this baseline; these should be made at levels commensurate with the role of the individual in the program or project involved. However, the written and/or oral discussions, if conducted, will include all offerors in the competitive range and may be used to establish the relative merits of personnel proposed by each competing firm.

(d) The presentation to the SSO must clearly and concisely set forth the results of the evaluation and discussion, including the strengths and weaknesses of each offeror's key personnel.

(5) *Corporate or Company Resources.* The SEB should assess the resources proposed by each offeror in the general areas of human resources and facilities. For example, are the proper skill mixes and numbers of people to do the work being offered? Does the offeror propose facilities and, where required, special test equipment suitable and adequate to assure timely performance of the work? If the offeror does not possess adequate resources internally, is there a demonstration of the ability to acquire them through subcontracts or otherwise?

b. Elements that further define the content of each subfactor may be used. If individually numerically scored, these elements must be revealed in the RFP and must be assigned a specific weighting in the SEB's evaluation plan as a portion of the total points allotted. If they are not numerically scored, identification in the RFP is not required.

c. Establishment of evaluation subfactors, elements, and their weights requires judgment on a case-by-case basis. The subfactors and elements established and included in the RFP will then be utilized to determine each offeror's rating in Mission Suitability, including its understanding of the requirements, approach to the work, and the competence of personnel to be directly involved.

d. By carefully considering the requirement(s) to be satisfied through the products or services being procured, the SEB should be able to identify, analyze, and score discrete subfactors and, where appropriate, elements that determine how well the proposed product or service can be expected to meet the demands of the specific requirement(s). If individual subfactors, elements, and their weights are prudently established, the integrated scores of the subfactors and elements will give a representative picture of the merit of each offeror's Mission Suitability.

e. (1) In structuring evaluation subfactors and elements, emphasis should be placed on identification of significant discriminators. Proliferation of subfactors and elements results in a leveling or averaging out of scores over all proposals. Too many subfactors and elements are detrimental to effective evaluation of proposals. Further, clearly defining each evaluation subfactor and element helps to avoid overlap and redundancy. Avoiding such overlap assures an offeror is not scored in two or more areas for the same work.

(2) The following example conveys one approach to describing a subfactor, utilizing elements, in an RFP. Within the "management plan" subfactor the following elements may be determined by the SEB as most suitable to assess how well each offeror's overall management proposal would contribute to the probability of performing the contract in an excellent manner: (a) Management approach and organization; (b) staffing plan; and (c) management systems.

f. For each subfactor and element, there should be detailed instructions provided in the RFP's Section L, "Instructions, Conditions, and Notices to Offerors or Quoters," specifying what supporting information should be included in the

proposals and the specific format to be used. This increases the probability that SEB evaluators will be provided necessary data in the format easiest to understand and evaluate relative to the subfactors and elements assigned for evaluation and assessment. Thought given to carefully structuring these instructions will generally result in proposals that address what the Government is most interested in relative to the work to be performed. For example, if the evaluation will utilize SEB committees or SEB panels, instructions for proposal preparation in the RFP's Section L that direct offerors to group together information required by such committees or panels will facilitate and accelerate the evaluation process.

g. Where the procurement involves acquisition of a major system under NMI 7100.14, "Major System Acquisitions," and the evaluation is to identify the most promising system design concept(s) to be selected for further exploration, the evaluation should also address the benefits to be derived by tradeoffs, where feasible, among technical performance, acquisition cost, ownership cost, and time to develop and procure.

2. Weighting of factors, subfactors, and elements

a. Numerical weights shall be used for evaluating the Mission Suitability factor for competing offerors.

b. (1) Once the Mission Suitability subfactors are established, the SEB will determine the weight assigned to each. Likewise, if elements are established, the SEB will determine the weight, if any, assigned to each. The proposed subfactors, elements, and weights will be presented to the SSO or designee for approval. The weight assigned to each subfactor and, if numerically scored, each element must reflect its relative importance within the overall Mission Suitability factor. In conjunction, an evaluation plan covering not only Mission Suitability evaluation, but all evaluation factors (Mission Suitability, Cost, Relevant Experience and Past Performance, and Other Considerations), will be established by the SEB (see Chapter 4). Mission Suitability evaluation subfactors, elements, and their weights shall be established and approved in advance of RFP issuance. The four factors and their supporting subfactors and, if numerically scored, elements shall be described in the RFP's Section M, "Evaluation Factors for Award," and the weights associated with the individual Mission Suitability subfactors and elements shall be revealed in Section M as well. However, care should be taken to avoid the impression of a mathematical evaluation devoid of judgment. The weights are intended to be used by the SSO as a guideline.

(2) If all evaluation factors are considered by the SEB to be of approximately equal importance, a statement to that effect shall be included in the RFP. However, if there is a difference in the level of importance among the factors, then a statement shall be included in the RFP to advise the offerors of the relative importance of the factors. In this regard, one example of a statement that might be appropriate, depending on the nature of the requirements, type of contract, and objectives of the acquisition, is as follows:

"Of the four evaluation factors identified above, Mission Suitability and Cost are most important, and, as related to each other, are approximately equal in importance. The Relevant Experience and Past Performance factor is of somewhat less importance than either Mission Suitability or Cost, and the Other Considerations factor is of considerably less importance than Relevant Experience and Past Performance.

The subfactors to be used in evaluating Mission Suitability and their corresponding weights are listed below in descending order of importance:

Understanding of the Requirement (40 percent)
Excellence of Proposed Design (30 percent)
Management Plan (15 percent)
Key Personnel (10 percent)
Corporate or Company Resources (5 percent)

The numerical weights assigned to the five subfactors identified above are indicative of the relative importance of those evaluation areas. The weights will be utilized only as a guide.

302 *Cost*

1. Before issuing a solicitation, the contracting officer and technical personnel shall (when it is feasible to do so) develop a Government cost estimate for the planned acquisition. Estimates can range from simple budgetary estimates to complex estimates based on inspection of the product itself and review of such items as drawings, specifications, and prior data. The SEB is tasked with the responsibility to ensure that the Government cost estimate properly reflects the effort to which the RFP applies.

2. In the Cost factor evaluation, the SEB shall analyze the proposed costs or prices of all offerors. The SEB may use any and all tools available in performing these analyses including information in the Armed Services Procurement Manual (ASPM). However, the required depth of the analysis is subject to the criteria in FAR 15.804. The SEB shall advise the SSO concerning—

a. The costs or prices as proposed by all offerors, including those not within the competitive range;

b. The comparison of costs proposed by all offerors, with the independent Government cost estimate, when feasible;

c. The realism of costs proposed by all offerors determined to be within the competitive range. Cost realism is a review of the proposal to determine if the overall costs proposed are realistic for the work to be performed, if the costs reflect an offeror's understanding of the requirements, and if the costs are consistent with the various elements of the technical proposal. This type of analysis will be used in the Cost area and Mission Suitability or other technical areas;

d. The probable cost to the Government of, at a minimum, each proposal within the competitive range. If it appears to the SEB that any offeror's approach(es) or plan(s) for accomplishing the proposed work will require modification in order to be acceptable to the Government, the SEB shall identify and assess the modification required, determine the probable cost of such modification, and include that probable cost assessment in its report to the SSO;

e. The differences in business methods, operating procedures, and practices as they impact cost; and

f. Its level of confidence in the probable cost assessments as they pertain to each fully evaluated proposal.

3. The probable cost should reflect the SEB's best estimate of the cost of any contract which might result from that offeror's proposal, including any recommended additions or reductions in personnel, equipment, or materials. To the extent that the recommended additions or reductions reflect a lack of understanding of the requirements of the RFP, that lack of understanding should be reflected in the scoring of the Mission Suitability factor, subfactors, and elements.

4. A well-defined statement of work reflecting clear, concise work breakdown structures is of great value in obtaining well-structured proposals and in allowing the SEB to understand and assess proposed costs.

5. All cost categories and amounts present in an offeror's cost proposal (including options) are to be analyzed by the SEB and reported to the SSO. In the event SEB members have different opinions as to the cost analyses and assessments of probable costs, these differing opinions should be reported to the SSO to aid in forming an opinion regarding the confidence to be attributed to the analyses and assessments.

303 *Relevant Experience and Past Performance*

1. This factor has been established to give relevant experience and past performance proper emphasis in the evaluation and selection process. Assessments to be made regarding relevant experience and past performance, particularly past performance, may be extremely difficult. In more straightforward cases, this assessment may be based upon well-documented and highly reliable evidence portraying favorable or unfavorable experience and past performance. More often, these assessments will be made from data presenting a less-than-optimum degree of well-documented evidence of a company's experience and past performance. The problem for the SEB will be establishing an acceptable degree of confidence that the data sources are providing an impartial, fair, and accurate representation of relevant experience and past performance. The SEB must be extremely careful in making the judgments and conclusions required under this factor but must not hesitate to assess relevant experience and past performance, positively or negatively, when the information received would reasonably support such an assessment.

2. This factor addresses evaluation of overall relevant experience and past performance for the company, not the experience and past performance of individuals involved with contract performance; the latter are to be evaluated under key personnel within the Mission Suitability factor.

3. Relevant experience reflects the accomplishment of work by an offeror that is

comparable to or related to the work or effort required under the instant procurement. Programs or projects of comparable magnitude that include technical, cost, schedule, and management constraints similar to those expected to be encountered in the instant procurement are clearly relevant.

4. Past performance is especially important; how well the offeror performed on similar work may be a significant indicator of performance on the job at hand. Many organizations exhibit characteristics that persist over time—for example, the ability to move projects out of the research environment and to translate research findings into practical, results-oriented hardware; difficulty in transitioning conceptual efforts into soundly engineered "hardcopy" plans which can be produced economically; resiliency in the face of trouble; resourcefulness; management determination that the organization live up to its commitments; and skill in development of key people. It is essential to develop such an indicator independent of the offeror's proposal. It is the responsibility of the SEB to collect and document information on the past performance of, at a minimum, all offerors within the competitive range. The SEB should personally contact program or project managers within NASA or other Government agencies in a position to have responsibly observed performance of the offerors as either a prime or major subcontractor and obtain their views concerning the quality of the work the offeror did (or is doing) on comparable jobs. In the event a substantially unfavorable response is received which, in the opinion of the SEB will be of special significance to the SSO, the offeror in question will be provided an opportunity during written and/or oral discussions (see Chapter 4) to clarify that response.

5. The SEB is responsible for collecting and developing relevant experience and past performance information, identifying the source, and presenting it to the SSO. While the clearly relevant experience or past performance is of prime importance, other experience or past performance determined by the SEB to be significant or to be indicative of company experience or past performance should be noted and brought to the attention of the SSO. All pertinent information, including project manager assessments and offeror responses, will be:

(a) Made part of the SEB's records,

(b) Contained in the SEB report, and

(c) Presented to the SSO.

6. The Relevant Experience and Past Performance factor is not numerically scored but is assigned an adjectival rating by the SEB.

7. This factor may be a significant consideration in the selection process. Therefore, the basis of the evaluation must be thoroughly identified and well documented. While objectivity is desirable, reasonable judgments often have to be made in the evaluation process. Subjectivity is not improper; an SEB should not hesitate to make reasonable subjective evaluations of relevant experience and past performance based upon as much factual data and experiential information as can be reasonably accumulated.

304 *Other Considerations*

1. This factor includes all considerations other than Mission Suitability, Cost, and Relevant Experience and Past Performance that the SSO will consider in making a final selection. Only Other Considerations specifically identified in the RFP shall be considered by the SSO in making a decision.

2. Following is a listing of Other Considerations that may be appropriate to include in an RFP. Not all of the subfactors listed are necessarily applicable to all procurements; nor is the listing intended to be all inclusive or restrictive:

a. Financial condition and capability.

b. Corporate priority on the work being proposed, or importance of the business to corporate management.

c. Labor-management relations.

d. Extent of proposed small and small disadvantaged business, and women-owned small business enterprise participation in subcontracting arrangements.

e. Geographic distribution of the work to be performed.

f. Acceptance of contract terms and conditions set forth in the RFP.

g. Any other subfactors pertinent to the particular procurement and identified under the Other Considerations factor within the RFP.

3. Other Considerations shall be defined specifically in the RFP, evaluated by the SEB, and reported to the SSO. Certain subfactors under the Other Considerations factor, such as financial condition and capability, may undergo change up to the moment of source selection.

4. Information regarding some of the Other Considerations is generally available to an SEB in the form of preaward surveys, NASA inspection reports, facility capability reports, purchasing system surveys, audit reports, and equal employment opportunity surveys. The SEB should make every reasonable effort to identify and use timely existing reports before initiating original inquiries. While written reports such as those mentioned in this paragraph may be significant, they should not be exclusively relied upon by the SEB. In addition, personal inquiries should be directed to Government managers likely to be knowledgeable about the offeror's record in these areas.

Chapter 3: Evaluation Factors, Subfactors and Elements

305 *Continuing Evaluative Responsibility of SEB*

Even after the SEB has made its formal report to the SSO, the SEB shall have continuing responsibility to report to the SSO, until its discharge, any circumstances that would change the SEB's evaluation findings relative to any evaluation factor (Mission Suitability, Cost, Relevant Experience and Past Performance, and Other Considerations) for any offeror. It is not intended that, after its report, the SEB actively pursue continuing evaluation. What is expected is that matters related to any of the evaluation factors which come to the attention of the SEB, and which might be expected to be pertinent to the selection decision, will be communicated to the SSO.

Chapter 4: SEB Operating Procedures for Solicitation and Evaluation

400 *General*

This Chapter describes procedural steps in preparing the SEB for its work and outlines SEB activities for solicitation and evaluation of proposals.

401 *Initial SEB Activities*

1. Official SEB activities commence upon receipt by the Chairperson of the letter establishing the SEB and designating its members which should be no later than approval of the procurement plan. However, prior to official establishment of the SEB, the proposed SEB Chairperson and members may hold meetings to accomplish such tasks as SEB member orientation to proposed operational procedures, security measures that will be utilized, and preliminary review of the proposed RFP.

2. Once the SEB is established, the SEB Chairperson shall ensure that—

a. A management and staffing plan is prepared, indicating necessary personnel and other resource requirements, including a time schedule for SEB actions and events leading to presentation of findings to the SSO;

b. Each SEB voting member is furnished appropriate information regarding the nature of the procurement in addition to a copy of their designation letter, approved procurement plan, and the projected time schedule;

c. Each SEB participant, voting and nonvoting, is cautioned concerning restrictions on disclosure of information during the SEB process, avoidance of conflicts of interest, and conformity with the NASA Standards of Conduct. Each SEB participant, voting and nonvoting, shall file a NASA Form 1270, "Confidential Statement of Employment and Financial Interests," in accordance with NHB 1900.1, "Standards of Conduct for NASA Employees." In addition, each SEB participant shall sign an appropriate nondisclosure statement (a sample nondisclosure statement is included in Appendix B). These documents shall be reviewed by the Associate General Counsel for General Law or designee for Headquarters employees or by the cognizant Field Installation Chief Counsel or designee for field installation employees;

d. Letters are issued to all personnel involved in the SEB's activities advising them of pertinent restrictions and prohibitions, including a caution not to discuss any aspect of the procurement with anyone not having a need-to-know. The right to information on a need-to-know basis does not extend to the normal chain of supervision of any member of the SEB or to any individual having technical responsibility for the effort being evaluated except as specifically approved by the SEB Chairperson on a case-by-case basis. Those individuals will also be notified by the SEB Chairperson, in writing, of the privileged character of proposal information;

e. The list of sources to be solicited is developed and approved by the SEB with the assistance of the cognizant procurement and program or project offices;

f. Whenever it is expected to be beneficial, a draft RFP or Statement of Work is issued to prospective offerors for comment;

g. Prior to RFP issuance, the substance and the weight of evaluation factors, subfactors, and elements, as well as the substance of any applicable qualification standards, are presented to the SSO or designee for approval;

h. The RFP is reviewed and approved by the SEB prior to issuance;

i. During the competitive phase of the procurement, every effort must be made to assure fair and equitable treatment of all offerors (both prospective and actual). Upon release of the formal RFP, the Chairperson shall impose a communication blackout, in writing, by directing all personnel associated with the procurement to refrain from communicating with prospective offerors, formally or informally, regarding any aspects of the procurement. All inquiries regarding the procurement shall be referred to the contracting officer; and

j. Prior to receipt of proposals, the evaluation plan is reviewed and approved by the SEB and cognizant management personnel. The evaluation plan, once approved, must be impartially applied by the SEB to each proposal.

402 *Evaluation Plan*

1. The SEB evaluation plan consists of general and specific evaluation guidelines (and qualification standards, where applicable) established to assess each offeror's proposal relative to the evaluation factors, subfactors, and elements set forth in the RFP. The evaluation guidelines are designed to focus the evaluators' assessment. They are not weighted and are not listed in the RFP. However, the substance of the guidelines may be included in a narrative description of the subfactors and elements. In addition, the plan includes the system used in conducting the evaluation and scoring each offeror's proposal.

2. The SEB determines what evaluation factors, subfactors, and elements to assign to the various committees and panels. While it is necessary to give committees and panels all information required to conduct an evaluation of their assigned area, it is not appropriate to disclose to them the specific scoring system used by the SEB in scoring proposals.

3. The detailed SEB evaluation plan to be used by the SEB, committees, and panels should be approved before the RFP is issued but, in any case, shall be approved before proposals are evaluated.

403 *Qualification Standards*

1. It is NASA policy to offer the opportunity to compete for its procurements as broadly as is consistent with the nature of each particular procurement. However, in view of the distinctive characteristics of NASA programs, those potential offerors that do not possess the minimum qualifications and resources necessary to perform the proposed work of a given procurement should not be encouraged to incur proposal and other expenses involved in competitive submissions.

2. To accomplish this objective without limiting meaningful competition requires early and intense effort on the part of the SEB, working in conjunction with the program and procurement staff most familiar with the procurement requirements.

3. When the nature of the procurement requires, qualification standards may be established in accordance with FAR 9.104–2. These will consist of special experience, capability, or specialized facilities critical to program performance aspects of the procurement.

4. In establishing qualification standards, care must be exercised to restrict them to those essential to the successful completion of the contract work. Qualification standards may be employed only where it is possible for the SEB to establish standards which are justified by the nature of the particular procurement. These standards must be applied equally to all potential sources.

5. When developed by the SEB and approved by the SSO or designee, qualification standards shall be clearly set forth in the RFP and included in the Commerce Business Daily synopsis.

6. Approved qualification standards will be used by the SEB to screen proposed source list(s) so that only firms possessing those unique specialized facilities, capability, or experience deemed critical to program performance aspects of the procurement will be solicited. Notwithstanding the considerations that lead to the elimination of sources from solicitation, any firm may submit a proposal. These same qualification standards will be used to consider all sources who may submit a proposal. This assures that the presolicitation consideration of prospective contractor qualification standards does not act to restrict competition, but only to discourage costly proposal submissions from potential offerors to whom award would not appear likely and that all offerors shall have an equal opportunity to compete. If an offeror fails to meet the stated qualification standards, the proposal shall be rejected, not considered further in the evaluation, and the offeror informed of the basis of rejection.

404 *Request for Proposals (RFP's)—Review and Approval*

1. Effectiveness of the evaluation is dependent, in large measure, on how well the work to be performed and the basic ground rules under which the competition will be conducted are described in the RFP. Accordingly, the RFP shall be reviewed by the SEB and approved by appropriate levels of management prior to issuance to ensure its acceptability.

2. In reviewing the RFP, the SEB and appropriate management shall ensure that the following matters pertinent to source evaluation and selection are fully covered in the solicitation:

a. Any qualification standards shall be identified and described.

b. Evaluation factors shall be described, including a general narrative explanation of their relative importance.

c. The Mission Suitability factor shall be described. Evaluation subfactors shall be identified and described, including their numerical weights. If deemed conducive to the evaluation process, elements of a subfactor shall be identified and described, including their numerical weights.

d. The Cost factor shall be described.

(1) When uncertainties involved in contract requirements necessitate the use of a cost-type contract, offerors may be motivated to perform within the proposed cost estimate through the inclusion of appropriate cost incentive arrangements.

(2) Negotiated indirect cost rate ceilings shall be used only in accordance with FAR 42.707.

e. The Relevant Experience and Past Performance factor shall be described. The identification data and contact or customer references required by NFS 1815.406–70(b)(6) for the conduct of this evaluation shall be stated. Offerors should be cautioned that omissions or an inaccurate or inadequate response to this evaluation category could have a negative effect on overall evaluation. Offerors should also be advised that, in addition to information they provide, the SEB will consider all information available to NASA regarding the offeror's relevant experience and past performance.

f. The Other Considerations factor shall be described.

g. The method of evaluation shall be explained clearly, but concisely, so that prospective offerors understand the SEB's use and treatment of the factors, subfactors, and elements.

h. When cost proposals are permitted to be submitted after technical proposals, a notice shall be included in the RFP stating the required date for each submission.

i. When applicable, a notice that a preproposal conference is to be held shall be included, stating its purpose, time, place, and scope.

j. The Statement of Work shall describe as clearly and concisely as possible the product or service to be procured. It shall be structured to identify the important areas of emphasis. There must be no inconsistencies between it and the evaluation factors, subfactors, and elements to be used by the SEB and the SSO. Nonessential or unduly restrictive requirements shall be eliminated.

k. Requirements for reports and data essential to contract evaluation and performance shall be clearly described, including a cross reference to the Statement of Work and a schedule for submission.

l. When the procurement involves a major system under NMI 7100.14, the SEB will ensure that the RFP is prepared in terms of mission need so each offeror can respond with an alternative system design concept proposal to satisfy the mission need and can propose a technical approach, design features, and alternatives to schedule, cost, and capability goals consistent with that concept. In order to remove inhibitions to innovative solutions and to improve the approach to achieving program objectives, consideration should be given to conducting orientation briefings for prospective offerors and, where appropriate, solicit comments on a draft of the solicitation.

m. Any limitations on pages and the number of copies of offerors, initial proposals shall be included. When imposing a firm page limitation, the solicitation must clearly state

that the evaluators will read only up to the maximum number of pages specified. Pages in excess of the maximum are to be removed from the proposal and not evaluated, but retained as a part of the official contract file. Guidance on the number of pages preferred in offerors' proposals may be used in lieu of a firm page limitation.

3. The SSO may request a detailed review of the RFP beyond that of the SEB and cognizant management personnel or may, more specifically, request a detailed review of the Statement of Work, qualification standards, evaluation factors, subfactors, elements, or other areas pertinent to proposal preparation, evaluation, and source selection. Specific reviewing officials or offices may be designated for this purpose.

4. The RFP shall comply with all current regulations and directives applicable to NASA solicitations; particular emphasis is placed on the requirements of FAR 15.406 and NFS 1815.406.

5. When detailed program or project support plans will be required as part of the offeror's proposal but are not considered important discriminators in the evaluation process, the requirements for these plans shall be described in separate appendices to the Statement of Work in accordance with NFS 1815.406–70(a)(7).

6. When, either before or after receipt of proposals, the Government modifies its requirements, the contracting officer is required to issue a written amendment to the RFP in accordance with FAR 15.606.

405 *Preproposal Conference*

1. A preproposal conference to brief prospective offerors may be conducted after a solicitation has been issued but before proposals are received, in accordance with FAR 15.409. The contracting officer, in conjunction with the SEB, shall make a determination, prior to issuance of the RFP, as to whether a preproposal conference is required. Generally, these conferences benefit both the Government and prospective offerors in complex acquisitions where it is necessary to explain or clarify complicated specifications and requirements.

2. The conference shall be scheduled to permit prospective offerors sufficient time after the issuance of the RFP to become familiar with the RFP requirements yet not too late to allow meaningful use of the information obtained at the conference.

3. The conference should include a presentation of the significant aspects of the procurement followed by a question and answer session. A record of all information provided at the conference, together with a copy of all questions and answers, shall be provided to all prospective offerors by formal written amendment to the solicitation. If it becomes apparent at the conference that the RFP needs revision, the revised requirements must be included in a written amendment.

406 *Initial Evaluation*

1. Upon receipt of proposals, the contracting officer shall mark each proposal with the date and time of receipt and forward all proposals to the SEB Chairperson or the SEB Recorder for control and safeguarding throughout the evaluation process.

2. Late proposals or modifications shall be handled in accordance with FAR 15.412.

3. Procedure for Evaluation of a Single Proposal

a. If only one proposal is received in response to the solicitation, the contracting officer shall examine the situation to ascertain the reasons for the single response. The contracting officer shall include a written notation in the contract file describing the circumstances surrounding the receipt of a single proposal as well as a determination whether or not the solicitation was or was not flawed or unduly restrictive, prior to releasing the proposal to the SEB for evaluation.

b. The SEB shall complete a limited preliminary evaluation to determine that the single proposal submitted satisfies stated qualification standards, if any, and is otherwise an acceptable proposal (see subparagraph 406.5). Upon completion of this limited preliminary evaluation, a letter shall be forwarded to the SSO presenting a summary of the evaluation results.

c. The SSO shall as a result of reviewing the SEB summary, and the contracting officer's examination of the facts and determination, notify the SEB Chairperson that either—

(1) The SEB is instructed to proceed with preestablished SEB procedures, including complete initial evaluation, oral and written discussions, request and receipt of a Best and Final Offer (BAFO), and final evaluation, culminating in a formal presentation to the SSO for approval to enter into negotiations;

(2) The contracting officer is instructed to immediately enter into negotiations resulting in a complete contract document, signed by the offeror, to be signed by the contracting officer upon approval by the SSO. Upon completion of the negotiations, the SEB shall present the results to the SSO for approval; or

(3) The SEB Chairperson is granted full delegation of authority to disband the SEB and to instruct the contracting officer to conduct negotiations for contract award without further SSO involvement.

(4) The contracting officer is instructed to reject the single proposal received and to cancel the solicitation.

d. These procedures are likewise applicable when the number of proposals equals the number of awards contemplated or when only one acceptable proposal is received as defined by subparagraph 406.5 of this handbook.

4. Committee Evaluations

a. The initial phase of evaluation generally will involve established committees. As promptly as possible, committees are to be convened. The SEB Chairperson shall transmit to the committees proposals or portions of proposals to be evaluated, instructions regarding the expected function of each committee, and all data considered necessary or helpful. The committee chairperson is responsible for instructing the members as to committee functions, responsibilities, and procedures.

b. While oral reports may be given to the SEB, the committee function requires the submission of a written report which should include—

(1) Copies of individual worksheets and supporting comments to the lowest level evaluated;

(2) An evaluation sheet summarized for the committee as a whole; and

(3) A statement for each proposal describing any strengths or weaknesses which significantly affected the evaluation and stating any reservations or concerns, together with supporting rationale, which the committee or any of its members want to bring to the attention of the SEB.

c. It is imperative that the SEB provide clear traceability throughout the evaluation process. This traceability must exist at all levels of the SEB process. All reports submitted by committees or panels will be retained as part of the SEB records but need not necessarily be included as part of the SEB report to the SSO. A committee report should be included with the SEB report if it is so significant that its inclusion is necessary to the SSO's understanding of the SEB's action.

d. Each voting SEB member shall thoroughly review each proposal. Committee reports and findings shall be reviewed by the SEB. The SEB is to consider the committee evaluation, take into account any reservations or concerns stated by the SEB members and the committee, and rate or score the proposals for each evaluation factor, subfactor, and element according to its own collective judgment. SEB minutes shall reflect this evaluation process which shall be consistent with the approved evaluation plan.

5. Identification of Unacceptable Proposals

a. The SEB may discontinue the evaluation of any proposal which is unacceptable because—

(1) It does not represent a reasonable initial effort to address itself to the essential requirements of the RFP or clearly demonstrates that the offeror does not understand the requirements of the RFP;

(2) In research and development procurement, a substantial design drawback is evident in the proposal, and sufficient correction or improvement to consider the proposal acceptable would require virtually an entirely new technical proposal; or

(3) It contains major technical or business deficiencies or omissions or out-of-line costs which discussions with the offeror could not reasonably be expected to cure.

b. Simple technical nonresponsiveness in the sense in which the term is used in sealed bidding is not alone sufficient to constitute unacceptability if the proposal is otherwise competitive and written and/or oral discussions, or negotiations after selection, reasonably offer the likelihood of resolution. When there is doubt as to whether a proposal should be rejected initially as unacceptable, that doubt shall be resolved by including it for further consideration.

c. The SEB must document its judgment that the deficiencies of any proposal are sufficiently significant to warrant discontinuing evaluation of the proposal at this point in the process.

6. SEB Findings

a. Preparing the results of the initial evaluation in a narrative SEB report is an important aspect of the evaluation process. The SEB should be aware that the SEB report and presentation provide the principal tools available to the SSO to perform a

comparative analysis in making a source selection decision. Guidelines for the report and presentation are set forth in Chapter 5 and Appendix C. For each proposal, the SEB should indicate in the narrative whether the proposal meets or fails to meet any of the requirements of the RFP; all strengths and weaknesses of the proposal and whether they are correctable; the proposed and probable cost (normally required only for those offeror(s) in the competitive range or those offeror(s) eliminated from competitive range on the basis of cost); the technical, schedule, and cost risk associated with the proposal; and the adjectival rating of the Relevant Experience and Past Performance and Other Considerations evaluation factors. Strengths and weaknesses must be further defined in the SEB report as major or minor to provide a valuable summary of discriminators among proposals in addition to supporting the adjectival ratings assigned to each Mission Suitability subfactor and element by the SEB, and for the Mission Suitability factor as a whole. In addition to the narrative report of evaluation findings, the SEB will apply the Mission Suitability scoring system detailed in the evaluation plan to rate each proposal in relation to the Mission Suitability evaluation subfactors and elements.

b. In structuring an applicable rating system, the following adjective ratings, definitions, and percentile ranges shall be used for the evaluation of Mission Suitability subfactors, and, if individually weighted and scored, elements. (The total proposal should also be classified with an appropriate adjectival rating for Mission Suitability.)

		Percentile range
Excellent	A comprehensive and thorough proposal of exceptional merit with one or more major strengths. No weaknesses or only minor correctable weaknesses exist.	91–100
Very good	A proposal which demonstrates overall competence. One or more major strengths have been found, and strengths outbalance any weaknesses that exist. Any major weaknesses are correctable.	71–90
Good	A proposal which shows a reasonably sound response. There may be strengths or weaknesses, or both. As a whole, weaknesses, not offset by strengths, do not significantly detract from the offeror's response. Major weaknesses are probably correctable.	51–70
Fair	A proposal that has one or more weaknesses. Weaknesses have been found that outbalance any strengths that exist. Major weaknesses can probably be improved, minimized, or corrected.	31–50
Poor	A proposal that has one or more major weaknesses which are expected to be difficult to correct, or are not correctable.	0–30

c. Normally, proposals are to be rated using adjectival ratings on two occasions as follows:

(1) Upon completion of the initial evaluation of proposals, and

(2) Upon completion of the final evaluation of the BAFO's.

Both ratings will be maintained by the SEB, included in the SEB report, and presented to the SSO. There shall be clear traceability of any scoring changes between initial and best and final proposals.

7. Determination of Competitive Range

a. Subsequent to the initial identification of proposals considered unacceptable, the SEB will compile initial evaluation findings, of all remaining acceptable proposals, sufficient for determination of the competitive range in accordance with FAR 15.609 and NFS 1815.613–71(b)(4). The competitive range shall be determined by the SEB together with the contracting officer on the basis of Mission Suitability, Cost, Relevant Experience and Past Performance, and Other Considerations stated in the solicitation and shall include all proposals that have a reasonable chance of being selected for award. Competitive range determinations are final unless the SSO determines otherwise.

b. The objective of a competitive range determination is not to eliminate proposals but to facilitate competition by conducting written and/or oral discussions with only those offerors who have a reasonable chance of being selected for award. Where there is doubt as to whether a proposal is or is not within the competitive range, the proposal should be included within the competitive range. The determination of competitive range is a complex determination based on informed judgment. All competitive range decisions shall be completely and adequately documented in the contract file in accordance with NFS 1815.613–71(b)(4).

8. Notification of Unsuccessful Offerors. The contracting officer shall notify each unsuccessful offeror in accordance with FAR 15.1001(b) at the earliest practicable time, in writing, that its proposal is no longer to be considered for contract award.

407 Final Evaluation

1. Evaluation of Plant and Facilities

a. Inspections at the plants of competing offerors could provide valuable insight into the SEB's evaluation of proposals. For instance, in procurements where significant experimental, research, developmental, testing, fabrication, or other work is to be performed (the quality of which may be affected by a contractor's plant or facilities), a complete evaluation may require an on-site visit by the SEB. For other procurements, e.g., support services contracts, plant inspections may serve no useful purpose.

b. When plant inspections are conducted, the visiting team shall include SEB members and any qualified experts required by the SEB. At least one SEB member shall be the same on all team visits to provide continuity and a basis for comparison. Visits are to be conducted, generally, after the SEB's initial evaluation has been completed and for a specific, clearly understood purpose. Visits shall be conducted only with the approval of the SEB Chairperson, who will ensure that all visits are made on an impartial basis. All personnel must remember that only the contracting officer can commit NASA and that they must avoid any contact with an offeror that is not essential or which could raise questions of impropriety. A visit to all offerors within the competitive range is advisable if plant inspections are being conducted.

c. Some potential benefits of plant visits are—

(1) Reviewing with resident Government personnel relevant experience and past performance;

(2) Reviewing the degree of capability and interest of the offeror to undertake the project in light of other work planned or in process; and

(3) Examining such matters as—

(a) Plant capacities;

(b) Management and technical capability of personnel;

(c) Availability of existing facilities, both Government-owned and contractor-owned;

(d) Adequacy of accounting practices and cost controls;

(e) Adequacy of estimating systems; and

(f) Ability to forecast and meet program schedules.

2. Written and/or Oral Discussions

a. Except as provided in FAR 15.610(a), the contracting officer shall conduct written and/or oral discussions with all responsible offerors in the competitive range. If, however, a decision is made in accordance with FAR

15.610(a)(3) to award without conducting written and/or oral discussions upon the completion of the initial evaluation, the SEB Chairperson shall forward a letter to the SSO for approval presenting a summary of the evaluation results. Upon SSO approval, the contracting officer shall undertake to complete all actions necessary to award the contract, without discussions or negotiations, to the offeror submitting the lowest overall cost proposal.

b. Written and/or oral discussions shall be conducted in accordance with FAR 15.610 (with the exception of FAR 15.610(c)(2)) and NFS 1815.613–71(b)(5). Preparation for written and/or oral discussions should include, but not be limited to, the establishment of the following:

(1) The time(s) and place(s) for conducting discussions. This requires establishment of the order of discussions with offerors. When feasible, the order should be established alphabetically or by lot. When discussions are to be at offeror's plants or offices it may be that geographic dispersion will be the deciding factor. The objective is impartiality.

(2) Topics for discussion. This will include preparation and issuance of written questions common to all offerors, as well as those that are peculiar to individual offerors, allowing adequate time for development of responses by offerors.

(3) The Government team that will conduct the discussions. The contracting officer, in concert with the SEB Chairperson, will designate appropriate procurement, pricing, and technical personnel for the Government team in addition to identifying the individuals specified in the offeror's proposal requested to be present for the discussions.

c. The contracting officer, in concert with or on behalf of the SEB, will conduct written and/or oral discussions of the effort to be accomplished and the cost or price of the effort with all offerors determined to be within the competitive range. The discussions are intended to assist the SEB—

(1) In understanding fully each offeror's proposal and its strengths and weaknesses based upon the individual efforts of each offeror;

(2) In assuring that the intent and the points of emphasis of RFP provisions have been adequately conveyed to the offerors so that all offerors are competing equally on the basis intended by the Government;

(3) In evaluating the personnel proposed by each offeror; and

(4) In presenting a report to the SSO that makes the discriminators identified among proposals clear and visible.

d. In cost-reimbursement type contracts and all research and development contracts, the contracting officer shall point out instances where the meaning of some aspect of a proposal is not clear and instances in which some aspects of the proposal failed to include substantiation for a proposed approach, solution, or cost estimate. However, where the meaning of a proposal is clear and the SEB has sufficient information to assess its validity and the proposal contains a weakness that is inherent in an offeror's management, engineering, or scientific judgment or which is the result of its own lack of competence or inventiveness in preparing its proposal, the contracting officer shall not point out the weaknesses. The possibility that such discussions may lead an offeror to discover that it has a weakness is not a reason for failing to inquire into a matter where the meaning is not clear or where insufficient information is available, since understanding of the meaning and validity of the proposed approaches, solutions, and cost estimates is essential to a sound selection. Offerors should not be informed of the relative strengths or weaknesses of their proposals in relation to those of other offerors. To do so would be contrary to regulations which prohibit the use of auction techniques (see FAR 15.610(d)(3)). In the course of discussions, Government participants should be careful not to transmit information which could give leads to one offeror as to how its proposal may be improved or which could reveal a competitor's ideas.

e. In fixed-price type contracts other than for research and development, the specifications ordinarily describe the Government's requirements with more particularity than is possible in cost reimbursement or research and development contracting, so that less emphasis is placed on an offeror's introduction of scientific, engineering, and management innovations. The contracting officer, in written and/or oral discussions, shall point out instances in which some aspect of a proposal contains a weakness in relation to the Government's requirements. However, the contracting officer shall neither point out the relative strengths or weaknesses of a proposal in relation to those of other offerors nor transmit information which could give leads to one offeror as to how its proposal may be improved or which could reveal a competitor's ideas. The contracting officer shall point out price elements that do not appear to be justified and shall encourage offerors to put forward their most favorable price proposals, but shall not discuss, disclose, or compare price elements of any other offeror.

f. Although unusual, if the SEB and the contracting officer, after conducting written and/or oral discussions, determine that a proposal no longer has a reasonable chance of being selected for contract award, the proposal can be eliminated from the competitive range in accordance with FAR 15.609(b). The contracting officer shall notify the unsuccessful offeror in writing that its proposal is no longer eligible for award.

g. If, after conclusion of written and/or oral discussions, the SEB considers that the evaluation findings thus far completed are not sufficiently comprehensive for the SSO to make a decision, it may be prudent and necessary to conduct further discussions or final negotiations with those offerors remaining in the competitive range prior to presentation of the findings to the SSO. This course of action must be considered as an exception to the SEB process and therefore may be accomplished only with the approval of the Assistant Administrator for Procurement.

3. Best and Final Offers (BAFO's)

a. The contracting officer will issue to all offerors still within the competitive range a request for Best and Final Offers (BAFO's) in accordance with FAR 15.611. Oral requests for BAFO's shall be confirmed in writing.

b. A common cutoff date and time that allows each offeror a reasonable opportunity to support and clarify its proposal through submission of a written BAFO shall be established. An offeror may, on its own initiative, revise its proposal and make corrections or improvements until the established cut-off date.

c. Offerors should be cautioned to provide supporting documentation for any changes to their prior offers. Any revision received after the established common cutoff date must be considered late in accordance with FAR 15.412.

d. The cutoff date must be such as to permit adequate time for all offerors to submit revised proposals; particular care must be taken to ensure that there is no compression of time for the offeror with whom discussions were last held, i.e., if 2 weeks is adequate time for submission, then the time allowed should be 2 weeks from the date of last discussions.

4. Evaluation Findings

a. After consideration of all committee reports, information received from offerors through plant visits, written and/or oral discussions, and BAFO's, the SEB shall conduct a final evaluation of proposals.

b. The final evaluation must build on the SEB's earlier recorded findings. The purpose of the final evaluation is to determine the effects, if any, of discussions and BAFO's on the SEB's earlier Mission Suitability scores and adjectival ratings as well as on the initial evaluation of Cost, Relevant Experience and Past Performance, and Other Considerations. Therefore, a clear and logical audit trail shall be maintained for the rationale for changes in ratings and scores, including a detailed account of the SEB decisions leading to the final ratings and scores.

c. The final evaluation must represent the collective judgment of the SEB regarding its assessment of the offerors for each factor evaluated including its assessment of the Mission Suitability subfactors, elements, if any, and its associated ratings, scores, and findings. The adjectival ratings and numerical scores shall reflect the strengths, weaknesses, and discriminators the SEB finds in the proposals. In this way, the reasons for differences in adjectival ratings, numerical scores, and findings can readily be explained to and understood by the SSO.

d. All significant SEB evaluation findings shall be fully documented and incorporated into a written report which will serve as the basis for the selection decision by the SSO.

Chapter 5: Source Evaluation Board Report and Presentation

500 General

This Chapter describes the requirements for the written report and oral presentation to the SSO.

501 Responsibilities and Procedures

1. The SEB shall prepare a written report of its findings, signed by the Chairperson and all voting members of the SEB. It shall present

its written report and make an accompanying oral presentation to the SSO. Guidelines for the written report and the oral presentation are set forth in Appendix C.

2. SEB Preliminary Presentation (Dry Run)

a. When the Administrator is the SSO, a preliminary presentation should be made to the Field Installation Director and to the Official-in-Charge of the cognizant Headquarters Program Office. When the Official-in-Charge of the cognizant Headquarters Program Office is the SSO, a preliminary presentation should be made to the Field Installation Director and the cognizant Headquarters Deputy Program/Staff Associate Administrator or the official responsible for the specific project. The dry run presentation is the same presentation prepared for the SSO. Attendance at the dry run shall be restricted to those personnel who are involved in the selection process or who have a valid need-to-know. For Headquarters dry runs, an attendance list will be issued by the SEB coordinator in the Office of Procurement (Code HS). Admittance to the dry run will be restricted to those individuals whose names appear on the attendance list. However changes proposed 24 hours before the presentation will be considered. Persons not on the list will not be admitted without the prior authorization of the SEB coordinator. For field installation dry runs, the attendance list will be prepared by a designee of the Procurement Officer.

b. The following personnel or designees should attend the Headquarters dry run presentation:

(1) Cognizant program/staff officials.

(2) Official-in-Charge of the cognizant Headquarters Program Office in those cases when the Administrator serves as the SSO.

(3) NASA Comptroller.

(4) Assistant Administrator for Procurement and/or Deputy Assistant Administrator for Procurement.

(5) General Counsel and/or Associate General Counsel (Contracts).

(6) Associate Administrator for Safety, Reliability, Maintainability, and Quality Assurance, when SRM&QA matters are involved.

(7) Field Installation Director.

(8) Field Installation Chief Counsel.

(9) Selected voting and nonvoting ex officio SEB members (no designees).

(10) Field Installation Procurement Officer.

(11) Headquarters procurement personnel responsible for support to the Headquarters cognizant Program/Staff Office.

(12) Other personnel as approved by the Official-in-Charge of the cognizant Headquarters Program Office and the Office of Procurement (Code HS).

c. The SEB Chairperson or designee is responsible for arranging and coordinating the SEB dry run with the SEB coordinator. The SEB dry run should take place far enough in advance of the presentation to the SSO to allow for changes or revisions to the presentation material, if necessary. The material used during the dry run presentation is considered to be "SEB Sensitive" and should be treated accordingly. Consequently, the SEB Chairperson is responsible for providing a projectionist, who has been SEB cleared, to present the material for both presentations.

d. The dry run presentation, as well as the presentation to the SSO, will ordinarily be made by the SEB Chairperson; however, if another official has been designated to make the final presentation to the SSO, that person shall also make the dry run presentation. The SEB presentation material shall be delivered to the SEB coordinator for control and distribution no later than 7 working days before the scheduled dry run presentation date. The SEB presentation material includes 10 copies of the SEB report and charts.

3. SEB Formal Presentation

a. The SEB shall present its evaluation findings to the SSO as the basis for a sound selection decision. This formal presentation should be attended by the same personnel or designees in attendance at the dry run, with the exception of the inclusion of the SSO at the formal presentation. Continuity of attendees assures a more efficient formal presentation in addition to limiting access to SEB sensitive data.

b. The cognizant procurement analyst in the Procurement Operations Division (Code HS) will function as the SEB coordinator and will perform coordination functions for the formal presentation when the Administrator or the Official-in-Charge of the cognizant Headquarters Program Office serves as the SSO. These functions include arranging the time and place of the presentation; assuring, with the concurrence of the appropriate personnel in the Office of the Administrator, proper attendance; and distributing SEB reports and graphic material.

4. The designated individuals to whom the SEB presentation(s) (dry run and final) are made will be responsible for ensuring that—

a. The requirements of this handbook and all applicable agency policies have been complied with in the solicitation and evaluation processes;

b. The written report and presentation accurately convey SEB activities and findings;

c. The oral presentation is arranged and conducted in a professional manner; it is complete and informative; and it can be concisely presented within the time allocated by the SSO; and

d. No changes (1) to established evaluation factors, subfactors, elements, weights, or scoring systems or (2) in the substance of the SEB's findings shall be made. They may, however, direct the SEB to reconvene to rectify procedural omissions, irregularities or inconsistencies, substantiate its findings, or revise the organization of the written report and/or the method of presentation.

5. All copies of the SEB reports and presentation material contain sensitive business information in addition to "SEB Sensitive" data and shall be adequately safeguarded throughout the source selection process. Physical safeguarding of sensitive data includes, but is not limited to—

a. Controlling the number of copies of proposals and SEB reports;

b. Restricting access to SEB work areas;

c. Securing SEB material under locked conditions or in vaults;

d. Minimizing SEB presentations other than the dry run and formal presentations; and

e. Limiting attendees at SEB presentations.

Chapter 6: Source Selection

600 *General*

This Chapter provides guidelines relating to the source selection decision, notice and debriefing for unsuccessful offerors, source selection statement, and multiple selection decisions.

601 *Source Selection Decision*

1. The SSO shall use the evaluation factors, subfactors, and elements set forth in the solicitation to make the source selection decision. The SSO shall consider the SEB findings and the advice provided by cognizant line and staff management at the conclusion of the SEB presentation in determining which of the proposals submitted in response to the solicitation would prove most advantageous to the Government, all factors considered.

2. In accordance with NASA policy and FAR 15.613, upon source selection by the SSO, the contracting officer will proceed with negotiations leading to award of contract(s).

602 *Notice and Debriefing for Unsuccessful Offerors*

1. a. When a proposal is no longer to be considered for contract award, the offeror will be promptly notified by the contracting officer, in writing, together, with a general, brief explanation of the major reasons in accordance with FAR 15.1001 and NFS 1815.613–71(b)(7). There are, generally, five points in the SEB process when it may be determined that a proposal is no longer to be considered for contract award:

(1) After determination that stated qualification standards, if any, have not been satisfactorily met.

(2) After identification of an unacceptable proposal in accordance with subparagraph 406.5 of this handbook.

(3) After determination of the competitive range resulting from the initial evaluation of proposals.

(4) After written and/or oral discussions resulting in a determination that a proposal does not stand a reasonable chance of being selected for award.

(5) After the selection decision by the Source Selection Official.

b. In the first four instances, the notice shall state that a revision of the proposal will not be considered. Post-selection notices shall be issued in accordance with FAR 15.1001(c) and 15.1002.

2. If any offeror requests a debriefing in writing, the offeror shall be formally debriefed and furnished the basis for the selection decision after the final source selection decision by the SSO. This debriefing should normally take place prior to contract award and be conducted in accordance with NMI 5103.1, "Debriefing of Unsuccessful Companies in Competitive Negotiated Procurements." If the situation will not permit delaying the award in order to debrief unsuccessful offerors, the debriefing may be conducted after award.

603 *Source Selection Statement*

1. When the final source selection decision has been made by the SSO, a Source Selection Statement shall be prepared for the SSO's signature in a manner releasable to the

competing offerors and the general public, if requested. When the Administrator or an Official-in-Charge of a Headquarters Program Office is the SSO, the Statement will be prepared by the Office of General Counsel. Source Selection Statements prepared at the field installation should be drafted by the Field Installation Chief Counsel or designee.

2. Source Selection Statements must describe the procurement; the SEB evaluation procedures; the substance of the Mission Suitability evaluation; evaluation of the Cost factor, Relevant Experience and Past Performance factor, and Other Considerations factor involved in reaching the selection decision. There should be coverage of unacceptable proposals, the competitive range determination, late proposals, or any other pertinent considerations applicable to the specific decision. It must be stressed that nothing can substitute for the use of good judgment. The Source Selection Statement must be self-sufficient and must reveal sound rationale for the selection clearly and succinctly, without revealing the scores involved, the proposed prices, or any other confidential business information.

3. Source Selection Statements shall be signed as soon as practicable after the final selection is made. The SSO may desire to have one or more key officials who participated in the selection decision concur on the Source Selection Statement prior to final signature.

4. As indicated in subparagraph 1, Source Selection Statements generally may be released to competing offerors and the general public; however, it is anticipated that the Statement will not always be available in final form or signed by the Source Selection Official at the time of debriefing of unsuccessful offerors. A draft of the decision portion of the Statement that has been reviewed by the SSO or a concurring official should be available to the designated Debriefing Official for guidance at the debriefing. In order to avoid any misunderstanding, the Source Selection Statement rationale contained in the draft Statement should have the approval of the SSO or a concurring official prior to any debriefing(s). This will enable NASA to demonstrate, for the record, that the SSO's selection rationale was not modified substantially (editorial changes can be made) as a result of the debriefings. If requested by an offeror a copy of the final Source Selection Statement will be furnished to the offeror when it is signed by the SSO, subject to the provisions of subparagraph 5.

5. a. Under some situations, multiple selections are made for the purpose of permitting a design or other competition to continue until a final selection is made for a single contractor to undertake full-scale development. Stating the strengths and weaknesses in the Source Selection Statement in these cases may result in the premature disclosure of innovative concepts, designs, and approaches. Release of these Selection Statements to competing offerors or the general public prior to final selection of concept(s) or contractor(s) for full-scale development could compromise the integrity of the competition by making possible a transfusion of ideas which could also inhibit offerors during the early phase from offering their best and most promising ideas for meeting the mission need.

b. Accordingly, unless prior approval is obtained through the Headquarters Procurement Operations Division (Code HS) with the concurrence of the Office of General Counsel, Source Selection Statements for the selection of alternative system design concepts subject to NMI 7100.14, "Major System Acquisitions," are not to be released to competing offerors or the general public, if requested, prior to the release of the Source Selection Statement for full-scale development.

c. A similar problem may occur in other procurements where competition continues but is not covered under NMI 7100.14, "Major System Acquisitions,". When possible, care should be taken to set forth the strengths and weaknesses and other information in a manner that will avoid this problem. However, if this is not feasible, the Statement should not be released except in accordance with the procedures of the Freedom of Information Act, 5 U.S.C. 552.

604 *Multiple Selection Decisions*

1. While SEB procedures contemplate that the SSO will be in a position to select a single source for final contract negotiations subsequent to the SEB presentation, a variety of considerations may lead the SSO to direct that contract negotiations be conducted with two or more offerors. Such negotiations are to result in complete contract documents signed by the offerors which may be accepted by the agency upon final selection of the successful offeror by the SSO.

2. The SEB shall consult with the SSO, the contracting officer, and the negotiating team regarding negotiation positions, objectives, and information to be obtained during negotiations to assist the SEB in making its final evaluation and report after the negotiations. The objectives of negotiations are essentially the same as those where a single offeror has been selected for final contract negotiation and award; each offeror's correctable weaknesses should be pointed out and corrected during negotiations, using whatever technical and other information is known and which the Government has the right to use. Similarly, negotiations should be conducted to result in a fair and reasonable cost or price. Particular attention shall be given to any instructions which the SSO may have given when he/she directed the multiple contract negotiations.

3. The final contract negotiation process differs from the written and oral discussions previously held with offerors in the competitive range. Discussions have the specific function of obtaining information for evaluation and selection purposes, while the final contract negotiations have the additional function of presenting that information in contractually binding form. For this reason, it is essential that each offeror be brought to the most favorable terms that the negotiation process can produce, including technical and scientific approaches, management arrangements, and estimated costs (or fixed prices where applicable). The prohibition against auction techniques in FAR 15.610(d)(3) is equally applicable to these negotiations.

4. Upon completion of the negotiations and agreement on contract terms, the SEB shall conduct a final evaluation, focusing on a comparative analysis of the contracts negotiated, their relative strengths and remaining weaknesses, their estimated costs and fee(s)/prices and probable costs, and any other factors that might influence the selection. The evaluation must build on the SEB's earlier report and presentation to the SSO which resulted in the decision to have multiple contract negotiations conducted. The evaluation is to determine the effects, if any, of the contract negotiations on the SEB's earlier final Mission Suitability scores as well as on evaluation of Cost, Relevant Experience and Past Performance, and Other Considerations; however, an arithmetic rescoring is not to be accomplished. A summary of the results of the evaluation shall be prepared for presentation to the SSO including any changes in the SEB's assessment of each proposal. The revisions may be expressed in a narrative analysis including an appropriate adjectival rating.

5. a. Upon completing its evaluation of the results of contract negotiations, the SEB shall report its findings to the SSO. This is to be accomplished by oral presentation and supplemental written report. When the Administrator is serving as the SSO, this should be preceded by preliminary presentations to the Field Installation Director and to the Official-in-Charge of the cognizant Headquarters Program Office.

b. The report and presentation shall include the following:

(1) A summary review of the previous report and presentation.

(2) A brief discussion of significant weaknesses and strengths of the companies involved, as reported and presented in the previous report and presentation, with emphasis on key discriminators, if any.

(3) A discussion of how any instructions given by the Source Selection Official were carried out.

(4) The results of the negotiation, and the impact, if any, on the SEB's findings and conclusions in the previous report, including Mission Suitability, Cost, Relevant Experience and Past Performance, and Other Considerations, as appropriate.

(5) Discussions of any matters or areas of substance that arose during the negotiations and that were not present in the proposals or the earlier oral and/or written discussions or BAFO's.

6. The contracting officer should be present and should participate, as appropriate, in the presentation to the SSO. The contracting officer or designee will bring to the presentation copies of the contracts signed by the offerors.

Appendix A—Sample Letter of Designation

TO:
FROM:
SUBJECT: Source Evaluation Board (SEB) for

Pursuant to Chapter 2 of the NASA Source Evaluation Board Handbook (NHB 5103.6), I hereby designate the following individuals to serve as members of the SEB for the purpose of evaluating proposals received in response to the solicitation for____:

Chairperson:

Name of individual, functional title, and organizational assignment.

Other Voting Members:

Names of individuals, functional titles, and organizational assignments.

SEB Recorder:

Name, functional title, and organizational assignment.

Nonvoting Ex Officio Members:

Name, functional title, and organizational assignment.

The SEB will conduct its business in strict accordance with the provisions of the SEB handbook. The SEB Chairperson is responsible for determining that each SEB member (both voting and nonvoting) is fully conversant with the instructions contained in the handbook. SEB duties will take precedence over other regular duties of the SEB members.

Attention of the SEB Chairperson and each SEB member is particularly directed to Chapter 2 of the SEB handbook which describes the roles of key participants in the SEB process, including cognizant line and staff management, the SEB, and the Source Selection Official (SSO). The importance of the SEB function to agency programs necessitates continual management involvement throughout the evaluation and selection process.

It is emphasized that the SEB report and presentation are the principal tools available to the SSO to perform a comparative analysis for making the final source selection decision and must be presented in sufficient depth to permit the intelligent weighing of alternatives. All proposals will be evaluated and reported in accordance with the SEB handbook. The SEB's written findings will give no consideration to elements which are extraneous to the objectives of this procurement.

Attention of the SEB Chairperson and the SEB is further directed to FAR 15.612(e) and Chapter 2 of the SEB handbook which prohibit the disclosure of information to anyone who is not also participating in the same evaluation proceedings. After receipt of proposals, all information contained in the proposals submitted for evaluation will be protected and will be made available only to the members (voting and nonvoting) of the SEB and to properly designated committees and panels on a need-to-know basis. The right to information on a need-to-know basis does not extend to the normal chain of supervision of any member of the SEB or to any individual having technical responsibility for the effort being evaluated except as specifically approved by the SEB Chairperson on a case-by-case basis. Individuals so designated by the SEB Chairperson will be notified, in writing, of the privileged character of proposal information.

Signature of Designating Official

Date

Appendix B—Individual Certificate for Source Evaluation Board Participants

1. I, the undersigned, a participant in the Source Evaluation Board (SEB) proceedings for the competition of the

_____

_____

contract, certify that I will not discuss or reveal any information concerning these SEB proceedings to anyone who is not also participating in the same SEB proceedings, and then only to the extent that such information is required in connection with such proceedings on a need-to-know basis.

2. I further agree that at any time I discover that I have an interest in, or connection with, a company submitting a proposal for evaluation by the Board or advisory committee on which I serve, I shall promptly report, in writing, the fact of my interest or connection, and the nature of it, to the person who has appointed me to the Board or advisory committee, through the SEB Chairperson. I recognize that a reportable interest or connection includes the following:

a. Ownership of a company's securities by myself or my spouse.

b. A close family relationship to an official of a company submitting a proposal or participating as a subcontractor.

c. Any other interest in or connection with a company which might tend to subject NASA to criticism on the basis that such interest or connection would impair my objectivity in participating on the Board or advisory committee of which I am a member.

3. I further certify that I have read and understand NHB 1900.1, "Standards of Conduct for NASA Employees."

4. In addition, I fully realize that any breach by me of my obligation to safeguard and not disclose to unauthorized persons any information made available to me concerning the evaluation may result in appropriate disciplinary action, provided for by law or regulation, being taken against me by duly constituted authority.

Signature

Date

Appendix C—Guidelines for the SEB Report and Presentation to the source Selection Official

I. Introduction

A. In preparing the SEB report and presentation, emphasis should be placed on substance. This Appendix C provides guidance on content and format of the SEB report and the oral presentation to the SSO. This guidance is designed to be appropriate for most procurements. If a specific procurement has peculiarities which cause the proposed format to be impractical, the SEB Chairperson may alter it in any manner that does not detract from the substance.

B. The findings of the SEB are presented in two parts, the written SEB report and an oral presentation. This Appendix sets forth the minimum requirements. The detail and use of additional schedules or other information are, of course, governed by the nature and scope of the subject being presented.

C. The SEB shall approve the written report and the graphic material to be used for the accompanying oral presentation. Viewgraph presentations are appropriate where the nature of the presentation permits. Copies of visual aids to be utilized for the oral presentation should be separately bound in a folder identified as "Briefing Charts" to accompany the written report.

D. A "Glossary of Terms" should be included in the SEB Report when appropriate to define acronyms or abbreviations.

E. Copies of the SEB report and related briefing charts shall be serially numbered and controlled by the Recorder and may be distributed or disclosed only to persons having responsibilities relating to the specific source evaluation proceeding involved, except as may otherwise be approved by the Administrator or designee.

II. Written SEB Report

A. Description of the Requirement

1. *Procurement Description.* Provide a narrative description of the technical requirement being procured together with its scientific objectives. Explain any follow-on effort which has been planned or for which program approval will be requested. Describe the relationship with other efforts in process or planned. Explain any particular technical complexities which had an important effect on the solicitation or the evaluation of proposals. Include a table of contents in the report.

2. *Funding.* State the funding applicable to the effort including:

a. The Government estimate for the procurement, if feasible.

b. The estimated amount to be obligated under the basic contract.

c. The estimated amount to be obligated under each priced option.

d. The estimated cost of any follow-on effort to be procured under separate contract, e.g., subsequent phases.

3. *Procurement Approach.*

a. State the date that the applicable procurement plan was approved.

b. Discuss any special procurement considerations which applied to the procurement being evaluated, e.g., the use of phased procurements.

c. Explain how the use of the type of contract approved in the procurement plan will advance NASA objectives; give reasons and rationale for the selection of contract type, including the applicability or inapplicability of the various incentive concepts (award fee, cost, performance, schedule, and multiple).

B. SEB Roster and Chronology of Events

1. *SEB Roster.* Include the SEB designation letter and any changes to it. As a supplement, provide the names, functional titles, and organizational assignments of the chairpersons of any committees and panels used by the SEB.

2. *Chronology.* Provide a chronology of major events connected with the source evaluation, such as:

a. The date(s) the source list and the Statement of Work were received for consideration by the SEB.

b. The dates the evaluation factors, subfactors, elements, and their definitions for incorporation into the solicitation, the relative weights of factors and the qualification standards, if applicable, were approved.

c. The date(s) the SEB with the assistance of the cognizant procurement and program or project offices approved the source list and the RFP.

d. The date the RFP was issued.

e. The date and place of any preproposal conference.

f. The date(s) of any RFP amendment(s).

g. The due date for receipt of proposals.

h. The date(s) and disposition of any late proposal(s) received.

i. The date the SEB was convened for proposal evaluation.

j. The date of the competitive range determination.

k. The dates and places of discussions with each offeror in the competitive range.

l. The date the request for BAFO's was issued.

m. The common cutoff date for conclusion of discussions and receipt of BAFO's.

n. The date the SEB completed its findings.

o. The date of the presentation to the SSO.

3. *Sources.* Provide a composite list, in alphabetical order, of all sources solicited and sources submitting proposals by company name and address. The list should be footnoted to explain any code used. Include a list of team members and subcontractors for those companies that submitted proposals.

C. Evaluation and SEB Findings

1. *Factors, Subfactors, Elements, and Weights.*

a. *Qualification Standards.* State any specific qualification standards included in the RFP, and explain why each was necessary.

b. *Evaluation Factors, Subfactors, and Elements.* State the evaluation factors used in the evaluation and their relative order of importance. State the Mission Suitability subfactors and elements, if any, their definitions, and the weights assigned to each. Explain the rationale for the proportionate weights assigned to each subfactor and element, if any. Set forth relevant excerpts from the RFP which describe the evaluation factors, subfactors, and elements, if any, and their relative importance.

2. *Evaluation Process.*

a. Discuss assignments made to committees and panels. Identify the factors, subfactors, and/or elements assigned for review and the rationale for assignment. Include any individual committee report necessary to understand the SEB results.

b. Discuss the adjective rating and numerical scoring methods and techniques used by the SEB.

c. Discuss the procedure used for the determination of the competitive range.

d. Describe the steps taken in verifying the offeror's relevant experience, past performance, and current capabilities, e.g., plant visits, customer checks, and audit reports.

e. Provide a summary of written questions common to all offerors and specific written questions addressed to particular offerors.

f. State the common cutoff date for conclusion of discussions and receipt of BAFO's.

g. Include an exposition of the SEB proceedings that is sufficient to verify proper procedures were followed and sufficient to bring out any procedural irregularities that might exist. Procedural problem areas, if any, are to be covered specifically.

h. Include copies of all letters addressed to or from the SEB regarding the SEB proceedings.

3. Initial Evaluation Findings.

a. *Summary Schedules.* Provide the following schedules:

(1) A single schedule listing all proposals in descending order of scores received for Mission Suitability stating the assigned score for each subfactor and weighted element. Each proposal should also be classified with the appropriate adjectival rating which indicates the SEB's composite appraisal of the Mission Suitability evaluation. In addition, the appropriate summary or adjectival rating for Cost, Relevant Experience and Past Performance, and Other Considerations should be included as a part of this schedule.

(2) Provide summary charts of what the SEB considers to be the significant discriminators.

b. *Statement of Findings.*

(1) Discuss briefly each proposal determined to be unacceptable and the rationale for the decision.

(2) Discuss each acceptable proposal in descending order of Mission Suitability scores. Include each offeror's estimated cost or price providing a breakdown by element (labor, material, subcontracts, overhead, G&A, and fee); provide the SEB's analysis and evaluation of the adequacy (for all offerors, including those not within the competitive range), realism (for all offerors determined to be within the competitive range), and most probable cost (for at a minimum, each proposal within the competitive range) of each respective cost proposal. Discuss the SEB's evaluation of Relevant Experience and Past Performance and Other Considerations. Include a discussion of the following considerations:

(a) Evaluation of the proposal as related to each factor, subfactor and element and to the approved evaluation plan in sufficient detail to permit examination of the findings of each evaluation phase and to trace discriminators to the final results. Where changes in rating or scoring have occurred during the process, a logical visible thread of the rationale for such changes in rating or scoring should be provided.

(b) Provide a discussion of the major and minor strengths and weaknesses of the proposal with an estimate of the potential for correction of weaknesses identified. Clearly list the strengths and weaknesses and identify them as major or minor, in addition to the narrative, to provide clear traceability throughout the evaluation process.

(c) Provide an analysis of key personnel.

(d) Discuss significant changes in the proposal, including the elimination of any correctable weaknesses, that would have to be negotiated after selection with a discussion of the negotiation cost objectives associated with those changes.

(e) Discuss the evaluation of the Cost factor, including the effects of the proposed cost on the technical and management effort.

(f) Provide a best estimate of the probable cost of performance, if selected, together with an indication of the confidence in the SEB's estimate.

(g) Provide any information or analysis that would be helpful to the SSO in determining the impact of cost in making a selection decision.

(h) Provide information to reflect the offeror's financial capability to perform the contract effort. A listing of possible information includes:

(i) Complete name and location of the organizational element proposing the effort.

(ii) Complete name and location of the parent corporation, if any.

(iii) Place or places of performance of the proposed effort.

(iv) Recent history of sales (of the particular division or entity involved), by customer, including industry and Government customers.

(v) Sales projections, by customer, for the period involved in the procurement.

(vi) Recent history of earnings of the division or entity involved in the procurement, if available.

(i) Present a brief analysis of the fee arrangement including any incentive arrangement's proposed, e.g., how the rewards would be earned or lost, the benefit to NASA, and any changes to be sought in negotiations (target minimum or maximum fee levels, sharing formula, or ceiling) which will improve the coverage of the incentive toward the attainment of the NASA objectives. Indicate whether, and for what reason, any offeror took exception to or suggested an alternative to the arrangement contemplated in the RFP. Provide an analysis of the importance the SEB attaches to such an exception or alternative.

(j) Provide detailed information on Relevant Experience and Past Performance. Provide information on the offeror's response to the RFP requirements for data in this category, the evaluation of the data by the SEB, the sources or references contacted, etc.; summarize conclusions and highlight significant accomplishments or failures. Provide the rationale for the adjectival rating of the SEB.

(k) Discuss the evaluation of Other Considerations and the rationale for the adjectival assessment of each subfactor under this factor.

4. *Competitive Range Determination.* Discuss the competitive range determination and the rationale for the decision, summarizing the evaluation findings that provided the basis for the decision.

5. *Written and/or Oral Discussions.*

a. Summarize the content of the written and/or oral discussions, the personnel included in the proposal who were invited to participate, and the list of attendees, including both Government and offeror personnel.

b. Discuss the time allotted for receipt of BAFO's and each proposal revision received.

6. *Final Evaluation Findings.* Summarize the BAFO revisions and provide a discussion

of the evaluation of the revised proposals and any resultant changes in rating or scoring. Provide the rationale for any changes. Clearly identify from the previous list of major and minor strengths and weaknesses any revisions, additions, and/or deletions to provide clear traceability throughout the evaluation process.

7. *Oral Presentation.*

a. The SEB Chairperson is normally responsible for conducting the presentation to the SSO. It is the Chairperson's function to convey concisely and accurately the results of the SEB deliberations to permit an informed and objective selection of the best source for the particular procurement.

b. As a general rule, the SEB Chairperson's prepared oral presentation should not exceed an hour to be followed by a question and answer period. Copies of the viewgraphs to supplement the SEB report forwarded to the SSO are to be available to those attending the oral presentation. Relevant backup material is to also be available at the presentation.

c. The main thrust of the oral presentation is to focus upon issues and problems identified by the SEB's findings and to highlight the reasonable alternative choices available to the SSO. This presentation must include an explanation of any applicable qualification standards; evaluation factors, subfactors, and elements; the major strengths and weaknesses of the offerors; the Government estimate, if applicable; the offerors' proposed cost/price; the probable cost; the proposed fee arrangements; the results of written and/or oral discussions; the BAFO's; the final evaluation findings; and the final adjectival ratings and scores. These aspects of the report are central to its meaning, and must be reviewed in the oral presentation despite the redundancy to the written report.

d. The presentation shall clearly indicate any discriminators. This requires the presentation of scores in enough detail to provide an adequate basis for the SSO to assess the validity of the judgments made by the SEB. This detail shall extend at least to all levels of subfactors and numerically scored elements.

e. A suggested progression of charts follows. Brevity and understandability are key. Charts should highlight the significant aspects of the comprehensive written report. They should prompt discussion. Sample charts are not included in this handbook since these tend to lead toward unnecessary or even inappropriate standardization. As appropriate, the Assistant Administrator for Procurement will, from time to time, disseminate sample charts illustrative of approaches or techniques of exceptional merit and usefulness.

(1) *Identification of the Procurement.* This chart should identify the installation, the nature of the services or hardware to be procured, some quantitative measure including the Government estimate for the procurement, and the kind of contractual arrangement planned. Detailed objectives of the procurement should be avoided.

(2) *Background.* This item is useful to identify any earlier phases of a phased procurement or, as in the case of continuing support services, to identify the incumbent and any consolidations or proposed changes from the existing structure.

(3) *Evaluation Factors, Subfactors, and Elements.* An explanation of any qualification standards and the evaluation factors, subfactors, and, if utilized, elements, along with assigned weights, is an important part of any presentation of SEB findings. The relative order of importance of the evaluation factors and, within Mission Suitability, the numerical weights of the subfactors and, if utilized, numerically scored elements should also be presented. The adjectival scoring system utilized as an aid in evaluation of Mission Suitability should be presented.

(4) *Sources.* This chart will indicate the number of potential offerors solicited, the number of potential offerors expressing interest, e.g., attendance at a preproposal conference, and the identification of offerors submitting proposals in response to the solicitation. Small businesses, small disadvantaged businesses, and women-owned businesses can be identified here. In addition, a chart must be included for each offeror indicating the Chief Executive Officer, the location of the offeror, some representative products, and similar information for each major subcontractor proposed.

(5) *Summary of Findings.* The summary chart shall, as simply as possible, list the initial Mission Suitability ratings and scores, the final Mission Suitability ratings and scores, the offerors' proposed costs/prices, and the SEB's assessment of the probable costs. In addition, any clear discriminator, problem, or issue which could have an effect upon the selection should be introduced at this time. The determination of competitive range must be addressed here.

(6) *Strengths and Weaknesses of Offerors.* These charts can be among the most valuable presented, and its preparation could initially assist the SEB Chairperson in distilling the essence of the SEB's findings. Certain guidelines should be followed in the preparation of these charts:

(a) Only the major strengths and weaknesses of individual offerors should be selected for presentation. The significance of strengths and weaknesses is lost when exhibited in long lists without distinction as to importance.

(b) The strengths and weaknesses should be directly related to the evaluation factors, subfactors, and elements.

(c) Strengths and weaknesses should be as clear as charting techniques and limitations will permit. Care should be taken to avoid an analysis of strengths and weaknesses based totally on numerical scores. This practice limits the SEB and the SSO in their evaluation and selection. For example, not all major weaknesses could be considered of equal value—some are correctable during negotiations and some are not.

(d) It is important to indicate the significance of major weaknesses. Can they be corrected during negotiations? If so, at what cost?

(e) The results and impact, if any, of written and/or oral discussions and BAFO's on ratings and scores must be clearly indicated.

(f) Key personnel charts must be included in the presentation, providing a list of the key personnel for each offeror together with, as appropriate , their educational background, general background, and any pertinent details applicable to this procurement.

(7) *Final Mission Suitability Ratings and Scores.* This chart is to summarize, as simply as the material will permit, the evaluation subfactors and elements, the maximum points achievable, and the scores of the offerors in the competitive range.

(8) *Final Cost Evaluation.* This chart summarizes probable costs associated with each offeror including proposed fee arrangements. The data should be as accurate as possible; therefore, SEB adjustments to achieve comparability should be shown. Further, the presentation of this chart should include the measure of confidence the SEB has in the costs of the individual offerors, noting the reasons for low or high confidence.

(9) *Relevant Experience and Past Performance.* This chart should reflect the summary conclusions. This information is to be supported and amplified by specific case data with particular emphasis on exemplary or inferior performance and its potential bearing on the instant procurement.

(10) *Other Considerations.* This chart lists and discusses the Other Considerations addressed in the RFP, providing an appropriate adjectival rating for each of the Other Considerations subfactors.

(11) *Special Interest.* This chart should include only information of special interest to the SSO that has not been discussed elsewhere, e.g., procedural errors or other matters that could have an effect on the selection decision.

[FR Doc. 88-21802 Filed 9-29-88; 8:45 am]

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federal register

Friday
September 30, 1988

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Endangered Status for Lomatium bradshawii (Bradshaw's lomatium)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines *Lomatium bradshawii* (Bradshaw's lomatium) to be an endangered species. The few remnant populations of this plant species are being threatened by habitat alteration or destruction through agricultural or residential development and competition with encroaching woody vegetation. *Lomatium bradshawii* occurs in isolated pockets of remaining native bottom land prairie habitat in the Willamette Valley of Oregon. This rule implements the protection provided by the Endangered Species Act of 1973, as amended (Act), for *Lomatium bradshawii*.

DATE: The effective date of this rule is October 31, 1988.

ADDRESSES: The complete file for this final rule is available for public inspection by appointment during normal business hours at the U.S. Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Jay Gore, Field Supervisor, Division of Endangered Species, U.S. Fish and Wildlife Service, 4696 Overland Road, Room 596, Boise, Idaho 83705. (208/334–1931 or FTS 554–1931).

SUPPLEMENTARY INFORMATION:

Background

Lomatium bradshawii (Bradshaw's lomatium) is a member of a native lowland prairie community endemic to the Willamette Valley of Oregon. This includes Benton, Linn, Lane, Polk, and Marion counties. First collected in 1916 at Salem, it was described as *Leptotaenia bradshawii* in 1934, and included in *Lomatium* in 1942. It is usually found on low swales in areas that are wet much of the year.

The most significant threat to this plant's survival has been the conversion of native prairie habitat to agricultural land. Because the habitat is very valuable and productive as farmland, most of such land in the Willamette Valley is now in agricultural use. Recently, residential and industrial development has encroached upon much of the remaining habitat that supports *Lomatium bradshawii*. Suppression of fire in some areas also appears to be allowing encroachment of prairie habitat by woody vegetation, resulting in a decline of the *Lomatium*.

Formerly, the plant occurred from Salem, Oregon, to Creswell, Oregon, but it is now reduced to 11 populations, scattered from Stayton, Oregon, to just south of Eugene, Oregon. Over 90 percent of the known plants are located within a 10-mile radius of the city of Eugene, Oregon. These populations vary in size from several thousand plants to only a few individuals, and their vigor varies considerably. Two of the larger populations are vulnerable to further urban and industrial development while the others are threatened primarily by agriculture development.

Section 12 of the Endangered Species Act of 1973, as amended (Act), directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of former section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act), and of its intention to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act.

This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Lomatium bradshawii* was included in the July 1, 1975, notice of review and in the June 16, 1976, proposal.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was established for proposals already over 2 years old. On December 10, 1979, the Service published a notice of the withdrawal of the still-pending portion of the June 16, 1976, proposal, along with four other proposals that had expired. The withdrawal of the proposal to list *Lomatium bradshawii* was not based on biological considerations, but instead was the result of the administrative requirements of the Act prior to the 1982 Amendments. An updated notice of review, published on December 15, 1980 (45 FR 82480), listed *Lomatium bradshawii* in Category 1, which comprises taxa for which sufficient information is available to support proposal of listing as endangered or threatened. On February 15, 1983, the Service published notice (48 FR 6752) of its finding that the petitioned listing of this species may be warranted, in accord with section 4(b)(3)(A) of the Act, as amended in 1982. On October 13, 1983, October 12, 1984, and again on October 11, 1985, the petition finding was made that listing of this taxon was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires that the petition be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. Therefore, a new finding was made; the Service found that the petitioned action is warranted and published a proposal, **Federal Register** of November 21, 1986 (51 FR 42116), to list the species as endangered, in accordance with section 4(b)(3)(ii) of the Act.

Summary of Comments and Recommendations

In the November 21, 1986, proposed rule, and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Newspaper notices inviting public comment were inadvertently not published in time for the first comment period. Therefore, the public comment period was reopened. A notice reopening the comment period was published November 23, 1987 (52 FR 44922). Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice, inviting general public comments, was published in the following newspapers: *The Oregonian* on December 22, 1987; *The Statesman Journal* on December 23, 1987; and *The Eugene Register-Guard* on December 23, 1987.

During both comment periods, which totaled approximately 6 months, a total of twelve written comments were received. Comments were submitted by two Federal agencies, one State agency, one conservation organization, professional botanists, and concerned individuals. Both responding Federal agencies, the U.S. Bureau of Land Management (Bureau) and the U.S. Corps of Engineers (Corps) stated that

Federal endangered status for this plant would not have any significant effect on their activities or plans.

More specifically, the Corps has identified *Lomatium bradshawii* as occurring only on the Fern Ridge Reservoir Project in the Portland Corps District, but stated that the listing of the Bradshaw's lomatium will have little, if any, impact on the authorized project purposes, nor on the normal project operations of facilities. The Corps' primary project operation is for flood control, and their secondary project is for irrigation.

The proposed waterfowl management operations to be instituted by the Oregon Department of Fish and Wildlife, a licensee on the project, may require modification to avoid impacting the *Lomatium* and its habitat. The proposed waterfowl management operation is intended to construct waterfowl impoundments. One of the dikes in this project may affect one *Lomatium* population in the area. In addition, a small population near Amazon Dike No. 2 in the Fern Ridge project area could be affected by the construction of a proposed bicycle path and dike. If a bicycle path is developed, according to the Corps, it will be routed to preclude any impact to the plant.

The Oregon Department of Agriculture supported the proposed ruling to list *Lomatium bradshawii* as endangered. The remaining comments received from biologists, a conservation group, and individuals familiar with this species strongly supported the listing. There were no comments from private landowners, nor were there comments questioning or taking issue with the listing of *Lomatium bradshawii*.

Summary of Factors Affecting the Species

After a thorough review and consideration of all available information, the Service has determined that *Lomatium bradshawii* (Bradshaw's lomatium) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to *Lomatium bradshawii* (Rose *ex* Math.) Math. & Const. (Bradshaw's lomatium) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Although this species was known historically throughout the Willamette Valley of Oregon, habitat of *Lomatium bradshawii* has been mostly developed for agriculture or urbanization, leaving 11 small populations. These habitats are generally managed for either livestock grazing or wildlife, or not managed at all.

Invasion of prairie vegetation by various woody plant species has also caused decline in *Lomatium bradshawii* at most of the sites. Prairies in the Willamette Valley apparently require periodic burning to prevent such encroachment. However, because seeds and young plants of the *Lomatium* do not survive fire, burning at too frequent an interval can prevent establishment of new individuals of the species (Kagan 1980). These 11 populations vary in number of individuals from a few to over 10,000 plants, and occur on 0.5 acre to approximately 30 acres.

Two existing populations are located near Corvallis, Oregon: One on the Finley National Wildlife Refuge (NWR) and the other just northeast of Corvallis. The population on Finley NWR was recently rediscovered and presently consists of about 60 individual plants. The habitat on the refuge is managed by the U.S. Fish and Wildlife Service, primarily as a natural area. Past management practices included some controlled burning to prevent the encroachment of shrubs on the native grassland. Future refuge habitat management activities will include provisions to improve the status of this population.

The second site, at the Jackson-Frazier wetland northeast of Corvallis, consisted of a remnant population of over 1,000 plants. An adjoining wet prairie of approximately 75 acres north of this area functioned as the watershed critical to this population. However, a large portion of this population was destroyed by construction of a housing development in 1980. The area supporting the remaining *Lomatium* plants was plowed in November 1985. About 400 plants still survive in 1986 (Kagan, pers. comm.). Well over 50 percent of the estimated population before construction and plowing were destroyed.

Other populations of *L. bradshawii* are in and around Eugene, Oregon. One is located near the Long Tom River, northwest of Eugene, Oregon, and formerly occurred on both private and Bureau of Land Management (Bureau) land. However, the portion of the habitat on private land and some adjacent habitat on Bureau land has been plowed, destroying approximately half of the total population. The remainder of this population, occurring on Bureau land, has been subject to light grazing in the past, but has never been plowed. The Bureau has not determined the future management of this land. The Department of Rangeland Resources, Oregon State University, has initiated a study to investigate the ecological role of fires in remnant Willamette Valley bottomland prairies. The Bureau intends to use these research results in the development of management strategies to perpetuate or improve the status of rare plant species, including *L. bradshawii*, and their restricted prairie habitats.

The second of these more southern populations, and the largest extant population of the species, numbering in the thousands, is located in Eugene near Willow Creek. This site supports a diverse plant community, a relic of the Willamette Valley bottomland prairie. Another plant candidate for listing, *Erigeron decumbens* var. *decumbens* (Willamette daisy) also occurs at this site. This land is privately owned and had been under consideration for residential development. Currently, it is leased to The Nature Conservancy, and the local community is negotiating to attempt to preserve the land.

The third population in the Eugene area is located near the Fern Ridge Reservoir on land administered by the Army Corps of Engineers. Although about 100 individuals of the *Lomatium* have been destroyed here in recent years, apparently as a result of permanent flooding of a portion of the area, the remaining population is estimated to comprise about 10,000 plants.

The fourth population in the Eugene area was discovered near Mt. Pisgah in 1985. It comprises about 100 to 200 individuals, and is threatened by urban and agricultural development.

Three small populations, of fewer than 100 individuals each, occur in or near Eugene, Oregon. One is located in Eugene along Amazon Creek. Although this land has been managed for recreation for many years, a very small population of *Lomatium bradshawii* occurs at the site. Another population was discovered west of Eugene near an electric power substation. A third was discovered a few miles south of Eugene along the Camas Swale near Interstate 5, in 1985, but has not been seen for 2 years, and may now be extirpated there. Two additional populations have been reported from near Sublimity, Oregon

and near Kingston, Oregon. These populations are very small and their continued existence is doubtful due to primarily agricultural development.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Although the species is not known to be threatened by collecting or vandalism, its rarity makes it vulnerable to any potential threat of taking.

C. Disease or Predation

Grazing may have formerly contributed to a reduction in the range of *Lomatium bradshawii*, but it is believed that grazing was never a significant problem. Land use conversion and introduction of forage plants for the purposes of grazing livestock may have been a significant problem.

Lomatium bradshawii is known to be affected by a number of parasites. A fungus, a spittle bug, two species of aphids, and an unidentified insect predator (of the fruit) have been associated with *L. bradshawii* (Kagan 1980). They are not known to present a threat to the species as a whole; however, they could threaten small and stressed populations. Further work is necessary to determine the significance of any such threats.

D. The Inadequacy of Existing Regulatory Mechanisms

Existing State and Federal regulations do not afford *Lomatium bradshawii* adequate protection. Agencies involved with allowing or funding agriculture development are not presently required to consult with agencies knowledgeable about the distribution of this plant. This lack of protection promotes the continued reduction of the plant's habitat and increases the potential for the plant's extirpation. Presently State and Federal governments do not require implementation and protective measures for the species and its habitat during application of pesticides. (*See* discussion under "Available Conservation Measures," below.)

E. Other Natural or Manmade Factors Affecting its Continued Existence

The remaining small populations are all disjunct and geographically (thus genetically) isolated from each other. Inbreeding depression in these small populations may be a real threat to their long-term survival (Kagan 1980). Further study is necessary to assess the significance of inbreeding.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Lomatium bradshawii* as endangered. This species has been reduced to a few remnant populations as a result of conversion of its habitat in the Willamette Valley to urban and agricultural use. Therefore, the Service believes that Bradshaw's lomatium is in danger of extinction throughout all or a significant portion of its range. No critical habitat is designated, for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. Because there are only 11 known remaining populations of *Lomatium bradshawii*, within relatively small tracts of land, the plant could be threatened by taking or vandalism if its localities were made widely known. Taking, an activity which is difficult to detect and control, is not regulated by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from lands under Federal jurisdiction. Publication of critical habitat descriptions would make this species more vulnerable to collection and vandalism pressures and increase enforcement problems. Therefore, it would not be prudent to determine critical habitat for *Lomatium bradshawii* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides authority for land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. In the case of *L. bradshawii*, the management of the Finley National Wildlife Refuge, the Army Corps of Engineers' property near the Fern Ridge Reservoir, and the Bureau's public land on which this species occurs would be subject to these requirements.

The Act, and its implementing regulations found at 50 CFR 17.61 and 17.62, set forth a series of general prohibitions and exceptions that apply to endangered plants. With respect to *Lomatium bradshawii*, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Because this species is not known to be cultivated and is rare in the wild, it is anticipated that few, if any, permits would ever be sought or issued. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Central Station, Washington, DC 20038–7329 (202/343–4955).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared

in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Kagan, J.S. 1980. The Biology of *Lomatium bradshawii* (Apiaceae), a rare plant of Oregon. Unpublished Report. 71 pp.

Author

The primary author of this final rule is Robert L. Parenti, U.S. Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705 (208/334–1931 or FTS 554–1931).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*). Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Apiaceae, to the List of Endangered Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Apiaceae—Parsley family:						
*	*	*	*	*	*	*
Lomatium bradshawii	Bradshaw's lomatium	U.S.A. (OR)	E	333	NA	NA
*	*	*	*	*	*	*

Dated: September 22, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–22327 Filed 9–29–88; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of Wild Nile Crocodile Populations in Zimbabwe from Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service reclassifies wild populations of the Nile crocodile (*Crocodylus niloticus*) in Zimbabwe from endangered to threatened. This change is supported by available biological information on the status of these populations and by the 1983 transfer of the Nile crocodile from Appendix I to II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This rule will allow for noncommercial importation of wild Nile crocodiles into the U.S., provided that such is consistent with the requirements of CITES.

EFFECTIVE DATE: October 31, 1988.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Office of Scientific Authority, Room 537, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, Mail Stop: Room 527, Matomic Building, U.S. Fish and Wildlife Service, Washington, DC 20240 (202–653–5948 or FTS 653–5948).

SUPPLEMENTARY INFORMATION:

Background

The Nile crocodile, *Crocodylus niloticus*, is one of the largest crocodilians, second in size only to the saltwater crocodile, *Crocodylus porosus*. Adults may weigh up to 2,200 pounds (1,000 kilograms) and reach as length of 16.4 feet (5 meters) (Pooley and Gans 1976). Many aspects of its ecological requirements are reasonably well known as a result of studies in various parts of its range (see Cott 1961, Modha 1967, Watson *et al.* 1971). Historically, the species occurred along the Mediterranean coast as far west as Tunis and as far north as Syria (Pooley and Gans 1976), though today it is confined to the lower Nile, tropical and southern Africa, and Madagascar.

Throughout much of its range, the Nile crocodile has been eliminated, or populations have been seriously reduced, because of habitat alteration, hunting for the hide industry, and killing to eliminate a potential threat to humans, livestock, and the fishing industry. The Nile crocodile was listed as endangered in the **Federal Register** of Juen 2, 1970 (35 FR 8495), because of the widespread decline of the species from overharvesting throughout its range. In some areas, including Zimbabwe, human development has increased available habitat through the creation of lakes and lagoons from damming swift-flowing rivers. In Africa today, some populations are apparently increasing or at least stabilized, though others continue to decline (Pooley 1982). The most serious immediate threat continues to come from the uncontrolled exploitation of wild populations for the hide industry.

A number of African countries, however, now recognize the Nile crocodile as a valuable part of their natural heritage, both in terms of the service it plays in its ecological role, and as a source of economic benefit from the tourist industry and in the potential for ranching animals for a controlled harvest of hides. Various measures have been used, including complete protection, to conserve populations, and most countries now recognize the need for sound biological data prior to instituting management, even if their present resources restrict their ability to conduct the required studies. Of those countries that have started ranching operations, Zimbabwe appears to have the best information on native populations. Other nations, particularly Zambia, Mozambique, South Africa, and Botswana, are presently gathering data on their crocodilian populations in connection with established ranches or ranching proposals.

In the **Federal Register** of June 17, 1987 (52 FR 23148), the Service reclassified

ranched populations of the Nile crocodile in Zimbabwe from endangered to threatened. At the same time the Service announced that available information indicated that wild populations of the species in Zimbabwe also should be reclassified from endangered to threatened, and issued a proposed rule to that effect (52 FR 23152). In that proposal, and associated notifications, all interested parties were requested to submit comments and information that might contribute to the development of a final rule. Five responses were received, all supportive of the proposal.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that wild populations of the Nile crocodile in Zimbabwe should be reclassified from endangered to threatened. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Nile crocodile (*Crocodylus niloticus*) in Zimbabwe are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

In Zimbabwe, the Nile crocodile inhabits streams and lakes, primarily under 4,900 feet (1,500 meters) in altitude, in the Zambezi River watershed (Pooley 1982). Prior to European settlement, the Nile crocodile probably occurred in large numbers in all major river systems in Zimbabwe. Except where habitats have been converted to agricultural land, the Nile crocodile can be found throughout most portions of its historic range within Zimbabwe. In some areas of Zimbabwe, human development has increased available habitat through the creation of lakes and lagoons from damming swift-flowing rivers. The creation of Lake Kariba has probably had the greatest positive effect on Nile crocodile populations in Zimbabwe. This manmade lake currently supports a population of 29,000±4,000 crocodiles (CITES 1983). Today, there are approximately 50,000 Nile crocodiles in Zimbabwe (CITES 1983), though current population numbers are probably less than historic ones.

B. Overutilization for commercial, recreational, scientific, or educational purposes

Little is know of crocodile distribution and abundance prior to 1950, though the species was seldom hunted (CITES 1983). Some animals were occasionally killed as vermin or from fear of destruction of property and loss of human life, but this problem was not thought to have substantially affected wild populations. However, wholesale slaughter of the species for skins took place during the 1950's and many accessible populations became seriously threatened with extinction. With the promulgation of the Wildlife Conservation Act by Zimbabwe early in 1960, the crocodile was recognized as a valuable resource and laws and regulations were introduced to prevent overexploitation of this animal. Populations generally showed an immediate response to this protection. However, some taking has persisted since that time, and public opinion, especially among people on whose land the animal occurs, has generally remained hostile; crocodiles continue to be killed as real or potential problem animals. In addition to the threats mentioned above, ranches in Zimbabwe are still dependent on the taking of wild eggs for their operations. However, "except where the collection of eggs is authorized for research purposes, the collector will undertake to make available to the Department suitably-sized crocodiles for conservation purposes. The number of such crocodiles will be calculated as 5 percent of the eggs harvested, or permitted to be harvested" (CITES 1983).

C. Disease or predation

Not know to be applicable at this time.

D. The inadequacy of existing regulatory mechanisms

As noted above, crocodiles in Zimbabwe were first protected by the Wildlife Conservation Act in 1960; subsequently, populations underwent substantial increases in numbers. Currently, crocodiles are covered by Zimbabwe's Parks and Wildlife Act of 1975, which gives ownership of wildlife to landholders on their lands. Crocodiles in Zimbabwe are regulated by an eleven-point policy (Zimbabwe Department of National Parks and Wildlife Management 1982). In addition to internal legislation and policies, regulating take within Zimbabwe, export of Nile crocodiles is regulated by CITES; Zimbabwe is a party to CITES. Regulation of take (as discussed above) has been the primary factor in the continuous improvement of Zimbabwe's wild Nile crocodiles since the early 1960's.

E. Other natural or manmade factors affecting its continued existence.

None known at this time.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in making this rule final. Based on this evaluation, the preferred action is to reclassify Zimbabwe's wild Nile crocodile populations from endangered to threatened. Criteria for reclassification of a threatened or endangered species are found at 50 CFR 424.11(d). They include extinction, recovery of the species, and error in the original data for classification. This rule is based upon evidence that Zimbabwe's wild Nile crocodiles are no longer in danger of extinction. However, because wild populations are still threatened, to some degree, by poaching and taking, and because ranches continue to depend upon wild eggs to maintain their populations, the Service believes that reclassification to threatened is most appropriate. In addition, data are insufficient to demonstrate a complete biological recovery of the species in Zimbabwe; therefore, reclassification to "threatened by similarity of appearance," or delisting, is not appropriate.

Effects of this Rule

This rule changes the status of wild populations of the Nile crocodile in Zimbabwe from endangered to threatened; therefore, all populations of Nile crocodiles in Zimbabwe are now considered threatened. As such, those regulations specifically pertaining to section 9(c)(2) of the Act apply to Zimbabwe's wild Nile crocodiles. Section 9(c)(2) of the Act states that "Any importation into the United States of fish and wildlife shall, if:

(A) Such fish or wildlife is not an endangered species listed pursuant to section 4 of this Act but is listed in Appendix II of the Convention;

(B) The taking and exportation of such fish or wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied;

(C) The applicable requirements of subsections (d), (e), and (f) of this section have been satisfied; and

(D) Such importation is not made in the course of a commerical activity;

be presumed to be an importation not in violation of any provision of this Act or

any regulation issued pursuant to this Act." Therefore, reclassification to threatened will allow for noncommercial import of Zimbabwe's wild Nile crocodiles into the United States (e.g., importation of sport-hunt trophies) provided that importation is consistent with the provisions and requirements of CITES (see CITES 1983) and the laws and policies of Zimbabwe. Under this final rule, the prohibitions applicable to the Zimbabwe populations of Nile crocodiles are stated in the special rule at 50 CFR 17.42(c). The Service finds that the protections provided under this special rule are necessary and advisable to provide for the conservation of the Zimbabwe populations of Nile crocodiles.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the Authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora). 1983. Amendments to Appendices I and II of the Convention. Proposals submitted pursuant to Resolution Conf. 3.15 on ranching, Annex 5 of Document 4.39, CITES Fourth Meeting of the Conference of the Parties, Gaborone, Botswana, April 19–30, 1983.

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Zimbabwe Department of National Parks and Wildlife Management. 1982. National Parks policy—conservation and management of crocodiles in Zimbabwe. Zimbabwe Sci. News 16(9):214–215.

Author

This rule was prepared by the Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (202–653–5948 or FTS 653–5948).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entries for "Crocodile, Nile" under "Reptiles" on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Reptiles:							
*	*	*	*	*	*	*	
Crocodile, Nile	Crocodylus niloticus	Africa, Middle East	Entire, except populations in Zimbabwe.	E	3,334	NA	NA
Do	...do	...do	Zimbabwe	T	3,334	NA	17.42(c)
*	*	*	*	*		*	

Dated: September 22, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–22328 Filed 9–29–88; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Echinocereus chisoensis var. chisoensis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service has determined that a plant, *Echinocereus chisoensis* var. *Chisoensis* (Chisos Mountain hedgehog cactus), is a threatened species. The only known locality for this cactus is Big Bend National Park, Texas, where an estimated 1,000 plants occur. Due to its low numbers and limited distribution, this cactus is vulnerable to taking, road improvements, and trail construction. Habitat degradation from former grazing, climatic changes, or other undetermined factors may be causing a decline in plant establishment. The determination of threatened status for *Echinocereus chisoensis* var. *chisoensis* implements protection provided by the Endangered Species Act of 1973 (Act), as amended.

EFFECTIVE DATE: October 31, 1988.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Charles McDonald, Botanist, Endangered Species Office, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

SUPPLEMENTARY INFORMATION:

Background

Echinocereus chisoensis var. *Chisoensis* (Chisos Mountain hedgehog cactus) is a Chihuahuan Desert plant endemic to Big Bend National Park, Brewster County, Texas. It was first collected in April 1939, by E. Radley

near the Chisos Mountains in Big Bend National Park. W.T. Marshall formally named it *Echinocereus chisoensis* in honor of the type locality (Marshall 1940). Lymon Benson (1969) assigned the taxon to the varietal level, revising the name to *Echinocereus reichenbachii* var. *chisoensis*. Nigel Taylor (1985) considers this taxon sufficiently distinct from the other varieties of *Echinocereus reichenbachii* that he has returned it to *Echinocereus chisoensis* and has included *Echinocereus fobeanus* with it as another variety. Thus, *Echinocereus chisoensis* now consists of *Echinocereus chisoensis* var. *chisoensis* endemic to Big Bend National Park and *Echinocereus chisoensis* var. *fobeanus* from southwestern Coahuila and northeastern Durango, Mexico.

The nomenclature of Benson was used in the listing proposal (52 FR 25275; July 6, 1987), but the equivalent and more recent nomenclature of Taylor is being followed in this final rule.

Echinocereus chisoensis var. *chisoensis* occurs on alluvial flats near the Chisos Mountains at elevations of 595–717 meters (1,050–2,390 feet). Vegetation is very sparse, with total plant cover estimated at 20–30 percent (Heil and Anderson 1982). Commonly associated plants are *Larrea tridentata* (creosote bush), *Agave lecheguilla* (lechuguilla), and *Opuntia schottii* (dog cholla). The Chisos Mountain hedgehog cactus frequently grows on bare soil within spreading clumps of *Opuntia schottii* and is also found in the shade of other associated plants.

The total number of plants of *Echinocereus chisoensis* var. *chisoensis* has been estimated at 1,000 (Heil and Anderson 1982). The plants occur in an area approximately 5 by 17 kilometers (3.1 by 10.6 miles); however, they do not occupy all of the potential habitat. No plants have been found in the bordering States of Chihuahua and Coahuila, Mexico (Heil and Anderson 1982).

This cactus is 7.5–15 centimeters (3–6 inches) tall, with deep green or bluish green stems. The spine arrangement consists of 12–14 radial and 1–4 central spines per cluster. This variety can be distinguished from varieties of *Echinocereus reichenbachii* by the length of the central spines and the whiteness of the spine mass. It can be distinguished from *Echinocereus chisoensis* var. *fobeanus* by its solitary stems and lack of annual stem constrictions. During the flowering period from March to early June, the plants are conspicuous due to the showy tri-colored flowers and the white wool and slender spines of the floral tube (Benson 1982). Petals are red at the base, white at mid-length, and fuschia at their tips. Fruits are green with a red tinge, fleshy, and are covered with long white wool and bristles (Evans 1986). Fruits mature from May to August and contain 200–250 seeds (Heil et al. 1985).

The population biology and ecology of this cactus are poorly understood. Some experts (Leuck, Ross, Heil, and Anderson) have proposed that plant numbers are limited by poor seedling establishment (Leuck, Centenary College of Louisiana, pers. comm. 1986; Heil and Anderson 1982). Leuck (1982) and Ross (1982) have suggested that short grass cover is the preferred site for seedling establishment and that grass cover was probably substantially reduced by overgrazing during the period from World War I through World War II. Other experts have suggested that long and short term climatic shifts have caused drier conditions and this may be contributing to a population decline (Zimmerman, Chihuahuan Desert Research Institute, pers. comm. 1986; Evans, Big Bend National Park pers. comm. 1986) Other undetermined factors may also be limiting plant establishment.

Federal action involving this species began with section 12 of the Endangered Species Act of 1973 which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of section 4(c)(2), now section 4(b)(3)(A), of the Act and of its intention thereby to review the status of those plants. *Echinocereus chisoensis* var. *chisoensis* was included as threatened in the Smithsonian report and the July 1, 1975 notice.

On December 15, 1980, (45 FR 82480), and September 27, 1985, (50 FR 39526), the Service published updated notices reviewing the native plants being considered for classification as threatened or endangered. *Echinocereus chisoensis* var. *chisoensis* was included in these notices as a category 1 species. Category 1 comprises taxa for which the Service has sufficient biological information to support proposing them as endangered or threatened species.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the Act's Amendments of 1982 further requires that all petitions pending on October 12, 1982, be treated as having newly submitted on that date. These circumstances apply to *Echinocereus chisoensis* var. *chisoensis* because of the acceptance of the 1975 Smithsonian Report as a petition. In October 1983, 1984, 1985, and 1986, the Service made 12-month findings that the petition to list *Echinocereus chisoensis* var. *chisoensis* was warranted but precluded by other listing actions of higher priority. Biological data supplied by Heil and Anderson (1982) fully support a listing of *Echinocereus chisoensis* var. *chisoensis* as threatened. The July 6, 1987, proposal to list *Echinocereus chisoensis* var. *chisoensis* as threatened was based primarily on Heil and Anderson's biological data and constituted the next 12-month finding for this plant.

Summary of Comments and Recommendations

In July 6, 1987, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, country agencies, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the Alpine Avalanche on July 30, 1987.

Five comments were received. Comments supporting the proposal were submitted by the Texas Parks and Wildlife Department, the Texas Natural Heritage Program, and Dr. A. Michael Powell, a botanist at Sul Ross State University. Two comments submitted by officers of the Cactus and Succulent Society of America offered no new information and did not take a position on the proposal. The comment from Dr. Powell stated that this experience suggests there may be several thousand of the cacti in Big Bend National Park and that shrubs rather than grasses are the primary nurse plants. *Response:* Surveys and monitoring done in 1986 and 1987 produced actual counts of only 183 plants. Undoubtedly, further surveys will increase this number, but presently, an estimate of 1,000 plants does not seem overly conservative. More information is needed to understand the actual habitat preferences and seedling requirements of this cactus. These studies will be included in recovery planning.

Summary of Factors Affecting the Species

After a through review and consideration of all information available, the Service has determined that *Echinocereus chisoensis* var.

chisoensis should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Echinocereus chisoensis* (W.T. Marshall) var. *chisoensis* (Chisos Mountain hedgehog cactus) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Former overgrazing may have contributed to a decline in the grass cover, altering the habitat for *Echinocereus chisoensis* var. *chisoensis*. Some experts (Leuck 1982, Ross 1982) believe that reduction in grass cover may have removed the plant's preferred seedling establishment habitat. Without grazing, natural grass re-establishment may create a more favorable environment for seedlings. However, recovery of overgrazed desert rangeland is a slow process and some desert communities never return to their former composition.

Plants occur within 33 meters (100 feet) of a major road and also near a popular park visitation spot. These plants and their habitat are vulnerable to destruction from road maintenance and repair or from trail building by the National Park Service or contractors.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Commercial collectors find *Echinocereus chisoensis* var. *chisoensis* desirable because of its rarity both in the field and in the trade; private individuals may find its desirable for its attractive flowers. Plants are vulnerable to taking because many occur near a major road where they are readily accessible and where they are highly visible during the flowering season. Due to the low number of individual plants, any taking would be deterimental.

C. Disease or Predation

None known.

D. The Inadequacy of Existing Regulatory Mechanisms

National Park Service regulations prohibits taking natural or cultural resources from a National Park, except by permit. Beyond this, the Park Service has no special requirements for protection or management of *Echinocereus chisoensis* var. *chisoensis*. All cacti are included on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Species on Appendix II require a permit from the orginating country before being shipped internationally. CITES only applies to international trade and does not regulate commerce either between or within States. *Echinocereus chisoensis* var. *chisoensis* is not currently protected by either Federal or State law.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Scarcity (an estimated 1,000 plants) and limited distribution make this plant vulnerable to both natural and human threats. Any further reduction in plant numbers could reduce the reproductive capabilities and genetic potential of this cactus.

Long or short term climatic changes may be creating drier conditions in the area, possibly contributing to a population decline. Evans (pers. comm. 1986) notes that the spring of 1986 was very dry. As a result, few *Echinocereus chisoensis* var. *chisoensis* flowered or fruited and many looked desiccated. Zimmerman (pers. comm. 1986) has suggested that a long term shift toward drier conditions has created less than adequate reproductive conditions for this cactus.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this final rule. Based on this evaluation, the preferred action is to list *Echinocereus chisoensis* var. *chisoensis* as threatened without critical habitat. Although this species has a small population size and limited distribution, threatened, rather than endangered, status seems appropriate because extinction does not appear imminent, and some protection is already provided by the National Park Service. The reasons for not designating critical habitat are discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Echinocereus chisoensis* var. *chisoensis* at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species," this plant is threatened by taking. Publication of critical habitat descriptions and maps would make it even more vulnerable. The National Park Service is aware of the locations of the plant and the importance of its protection. Habitat protection will be addressed through the recovery process and through section 7 of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endandered Special Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service at the earliest opportunity. Actions that may benefit *Echinocereus chisoensis* var. *chisoensis* include continued monitoring to determine population changes, biological and ecological studies to determine limiting factors, and propagation studies for possible introduction of plants back into native habitat. The protection required of Federal agencies and the prohibitions against taking are discussed in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The usual result of a section 7 consultation, if jeopardy is found, is modification and not cancellation of a proposed action. Road improvements or trail construction by the National Park Service or contractors may damage or remove some plants and habitat of *Echinocereus chisoensis* var. *chisoensis*. If planned construction activities may affect this cactus, the National Park Service must enter into consultation with the Service prior to initiation of a project. No other Federal activities are

known or are expected to affect this species.

The Act and its implementing regulations found at 50 CFR 17.71 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any threatened plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. With respect to *Echinocereus chisoensis* var. *chisoensis*, it is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquires regarding them may be addressed to the Permit Branch, Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/343–4955).

Echinocereus chisoensis var. *chisoensis* is on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Species on Appendixc II require a permit from the country of origin prior to export. International trade in this species is minimal. The Service will not review this species to determine if it should be reclassified under CITES.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983, (48 FR 49244).

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Taylor, N.P. 1985. The genus *Echinocereus*. Timber Press, Portland, Oregon. 160 pp.

Author

The primary author of this final rule is Charles McDonald, Endangered Species Office, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972). Status information was provided by K.D. Heil, Navajo Community College, Shiprock, New Mexico, and E.F. Anderson, Whitman College, Walla Walla, Washington.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Cactaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
*	*	*	*	*		
Echinocereus chisoensis var. *chisoensis* (=E. chisoensis=E. reichenbachii var. *chisosensis*).	Chisos Mountain hedgehog cactus	U.S.A. (TX)	T	335	NA	NA
*	*	*	*	*		

Dated: September 22, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–22329 Filed 9–29–88; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Two Long-Nosed Bats

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for the Mexican long-nosed bat (*Leptonycteris nivalis*) and Sanborn's long-nosed bat (*L. sanborni*), which are found in the southwestern U.S., Mexico, and Central America. They depend largely on caves for roosting and on the flowers of agaves and cacti for food. Both species evidently have declined in recent years, and remaining populations are jeopardized by disturbance of roosting sites, loss of food sources, and direct killing by humans. This rule implements the protection of the Endangered Species Act of 1973, as amended, to these animals.

EFFECTIVE DATE: October 31, 1988.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

SUPPLEMENTARY INFORMATION:

Background

The genus *Leptonycteris* differs strikingly from most other bats that occur in the United States, in having an elongated muzzle with a small nose leaf at the tip. Its long tongue, an adaptation for feeding, measures up to 3 inches (76 millimeters). Head and body length is 2¾ to 3¾ inches (70 to 90 millimeters), the tail is very small, and weight is ½ to 1 ounce (18 to 30 grams). Coloration is usually yellowish brown or grayish above and cinnamon brown below (Wilson 1985a, 1985b).

Leptonycteris contains three species, of which one (*L. curasoae*) is known only from the northern coast of South America and some adjacent islands (Nowak and Paradiso 1983). The other two species, which occur in the southwestern U.S., Mexico, and Central America, are *L. nivalis* (Saussure), the Mexican or "big" long-nosed bat, and *L. sanborni* Hoffmeister, Sanborn's or "little" long-nosed bat. These bats have a rather confusing nomenclatural history, and *L. sanborni* is sometimes called *L. yerbabuenae*. Although there is general agreement that *L. nivalis* and *L. sanborni* are distinct species, and while the two can be separated by cranial and dental characters, they are sometimes difficult to distinguish in the field (there is actually little size difference). The most useful external identification characters are the shorter, denser pelage of *L. sanborni*, and the longer, finer hair extending above and beyond the tail membrane of *L. nivalis* (Wilson 1985a, 1985b).

These bats are adapted for life in arid country, and are found mainly in desert scrub habitat in the U.S. parts of their range. Farther south, they sometimes occur at high elevations on wooded mountains. For day roosting sites, they depend almost entirely on caves and abandoned mines and tunnels. Populations in the U.S. and northern Mexico apparently migrate southward in the fall and return in the spring, with groups occupying the same caves, year after year. Thousands of individuals may roost together at a single site, though large aggregations now seem much rarer than in the past (Wilson 1985a, 1985b).

The bats emerge at night to feed on nectar and pollen, especially of the flowers of paniculate agaves (century plants) and large cacti. An intimate mutual relationship seems to be involved, with the bats depending on the plants for food, and the plants requiring the bats as pollinators. In recent decades, human exploitation of agaves may have contributed substantially to a drastic reduction in populations of *Leptonycteris*, which in turn caused a serious decline in the reproductive rate of certain agaves (Howell 1974, 1976, pers. comm.; Howell and Roth 1981). Fruit, particularly soft and juicy kinds, is also eaten by these bats, especially in the southern parts of their range (Wilson, pers. comm.).

In its Review of Vertebrate Wildlife in the **Federal Register** of December 30, 1982 (47 FR 58454–58460), the Service included *L. nivalis* in category 2, meaning that information then available indicated that a proposal to determine endangered or threatened status was possibly appropriate, but was not yet sufficiently substantial to biologically support such a proposal. In a revised Review of Vertebrate Wildlife in the **Federal Register** of September 18, 1985 (50 FR 37958–37967), both *L. nivalis* and *L. sanborni* were placed in category 2. Shortly thereafter, the Service received completed reports (Wilson 1985a, 1985b) of status surveys, which it had initially funded in 1983. These reports, and other information provided to the Service, indicate that the two long-nosed bats have declined, that their remaining populations are jeopardized by several factors, and that they now warrant addition to the List of Endangered and Threatened Wildlife. In the **Federal Register** of July 6, 1987 (52 FR 25271–25275), the Service published a proposed rule to determine endangered status for these two bats.

Summary of Comments and Recommendations

In the July 6, 1987, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in *The Star* (Tucson, AZ) and the *Alpine Avalanche* (Alpine, TX) on July 30, 1987, which invited general public comment. Six comments were received and are discussed below.

Five letters of support were received (Arizona Game and Fish Department, Texas Parks and Wildlife Department, Arizona Department of Commerce, the Director of the Oklahoma Museum of Natural History, and a Ph.D. candidate from the University of Arizona), and one letter of opposition (New Mexico Game and Fish Department) was received.

The Ph.D. candidate sent additional location information on Sanborn's long-nosed bat. While important, this information does not change the major conclusions about the status of the bat. The information was incorporated into this final rule.

The New Mexico Game and Fish Department questioned the validity of listing these species based on present evidence. They believe the data base is limited—especially for the ranges south of the United States. Their criticism focused on what they believed to be inadequacies in the 1985 status report of *L. sanborni*. Although the decision to list these two species of *Leptonycteris* was based in part on the status reports by Wilson (1985a, 1985b), the Service did consider information from other sources in making this decision. In addition, although additional survey work should be conducted to aid in the recovery of these bats, the Service believes that the status reports and information from other sources does contain sufficient information to support listing. (See "A" under "Summary of Factors Affecting the Species"). Section 4 of the Endangered Species Act requires that listing determination be made on the basis of the best available scientific information.

Summary of Factors Affecting the Species

After a thorough review and consideration of all available information, the Service has determined that the Mexican long-nosed bat (*Leptonycteris nivalis*) and Sanborn's long-nosed bat (*L. sanborni*) should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Mexican long-nosed bat (*Leptonycteris nivalis*) and Sanborn's long-nosed bat (*L. sanborni*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The species *L. nivalis* originally occurred from southwestern Texas and perhaps southwestern New Mexico, through much of Mexico, to Guatemala. The reported presence in New Mexico is based solely on two specimens collected in 1963 and 1967 in Hidalgo County. The only roosting site in the United States, currently known to be in use, is a cave in Big Bend National Park, Texas. The population there was estimated at 10,650 individuals in 1967 and about 1,000 in 1983 (Wilson 1985a). *L. nivalis* still occurs in Mexico, but there is evidence of a severe decline. The recent Service-funded survey covered nearly all sites in that country, where the species had been reported in the past, and located live individuals at 15 localities, but only in relatively small numbers. An abandoned mine in Nuevo Leon, which had an estimated population of 10,000 *L. nivalis* in 1938, had no sign of the species in 1983. Another mine in that State, which had a ceiling covered with newborn young in 1967, contained only a single bat in 1983. A cave in Morelos that supported large numbers in the 1950's and 1960's had only 30–50 individuals in 1984, and that was about the largest group found in Mexico (Wilson 1985a). Reported occurrence in Guatemala is based entirely on two specimens collected over 100 years ago (Jones 1966).

The species *L. sanborni* originally occurred from central Arizona and southwestern New Mexico, through much of Mexico, to El Salvador (Hall 1981). It evidently was once more common in the U.S. than was *L. nivalis*, but a deterioration in status was noted some years ago. Hayward and Cockrum (1971) reported that populations of many colonies in Arizona and northwestern Mexico had greatly declined and some had completely disappeared. A 1974 survey of all localities in the U.S., from which the species had been reported, found only 135 individuals (Howell and Roth 1981). Until the 1950's, a single roosting colony, at Colossal Cave in Pima County, Arizona, contained as many as 20,000 *L. sanborni*, but that colony has now vanished. The recent Service-funded survey covered every previously known site of occurrence in the U.S., but found the species only in one place, a cave on private property in Santa Cruz County, Arizona, that held about 500 individuals. However, based on reported sightings of bats visiting artificial hummingbird feeders, two additional populations of *L. sanborni* are thought to survive in or near Cochise County, Arizona, one containing perhaps 300 individuals.

The Service-funded survey also covered nearly all sites in Mexico, from which *L. sanborni* had been reported. Live individuals were found in only three places, and very few in two of those. The third site, a cave on the coast of Jalisco, may have supported 15,000 *L. sanborni* (Wilson 1985b). To the south of Mexico, the species is known only by a single specimen, collected in El Salvador in 1972 (Jones and Bleier 1974).

Since the proposed rule was published, the Service has received several other reports of *L. sanborni*. Most of these, however, appear to be small colonies (less than 50 bats) or a single bat. One unconfirmed report of 2,000–3,000 *L. sanborni* in the Patagonia or Santa Rita Mountains during the fall of 1987 has been received. This area is close to the site where the largest colony was found in 1985 during the status survey. Another report of 800–1000 in a cave in Sonora, Mexico during May, 1986 was received. Both of these colonies were found in different years than the status survey; therefore, they may represent bats counted in the status survey.

The reasons for the evident decline of the two long-nosed bats are not entirely clear, but are probably associated, at least in part, with habitat disruption. The two most important aspects of the bats' habitat involve roosting sites and food sources. A limited number of caves and mines provide a proper roosting environment. While there are no precisely documented cases of roosts being made unusable, such sites are becoming increasingly subject to human destruction and disturbance, particularly in Mexico. The currently known U.S. roosts are thought to be well protected, but because there are so few, the loss of one could be devastating (Wilson 1985a, 1985b). These bats are easily disturbed and readily take flight when approached (Wilson *et al.* 1985).

As mentioned above, the long-nosed bats feed to a considerable extent on nectar and pollen of the flowers of agaves and cacti, especially in that portion of their ranges in the United States and northern Mexico. Their muzzles and tongues, both in length and surface structure, are highly adapted for deep insertion into flowers and collection of pollen particles (Greenbaum and Phillips 1974, Howell and Hodgkin 1986). Paniculate agaves (century plants), which produce showy, easily accessible, night-blooming flowers, the pollen of which is rich in protein, seem to be especially important to the bats. The annual migrations of the bats are associated to some degree with flowering of agaves in various areas. For example, the June arrival of *L. nivalis* in Big Ben National Park, Texas, coincides with the onset of agave flowering (Wilson 1985a). Unfortunately, the survival of many species and varieties of agaves is in doubt, especially in Mexico, because of human exploitation (for food, fiber, and alcoholic beverages), the spread of agriculture, wood cutting, and livestock grazing (Reichenbacher 1985).

Considerable evidence exists for the interdependence of *Leptonycteris* and certain agaves and cacti (a phenomenon known as chiropterophily) and for the simultaneous decline of the bats and agaves (Howell 1974, 1976, pers. comm.; Howell and Roth 1981). In location, structure, odor, and time of blooming, the flowers of the plants facilitate use by the bats. And in morphology and physiology of their noses, tongues, and dentition, the bats are adapted for feeding on the plants. When a bat visits a flower, it not only laps up some of the nectar and pollen on the spot, but picks up a considerable amount of pollen on its fur for later consumption. Some of this material is transferred to the next flower visited by the bat, and hence the plant is pollinated and reproduction can occur. *Leptonycteris* is thought to be the most important pollinator of some paniculate agaves and of the giant saguaro and organ pipe cacti. When the bats move northward in the late spring and summer, they are largely dependent on these plants. When they turn back south, and are conentrated in northern Mexico, the only blooming plants available to them are agaves. These agaves, however, are being intensively harvested by "moonshiners" for tequila production.

Excess harvest, and other factors resulting in elimination of agaves, may have contributed substantially to the drastic decline in long-nosed bat populations. In turn, the drop in bat numbers over the past several decades has coincided with a decline in the reproductive rate of agaves. For example, herbarium specimens of *Agave palmeri* from the Rincon Mountains of Arizona indicate pollination success of 80–100 percent in 1938–1941, when the area supported the huge Colossal Cave colony of *L. sanborni*. In 1976, after this colony had practically disappeared, the fecundity of *A. palmeri* was 0–10 percent. Other agaves, as well as the saguaro and organ pipe cacti, may also be affected, and there is concern for the future of entire southwest desert ecosystems.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Leptonycteris is not known to be taken for commercial purposes, and scientific collecting is not thought to be a problem. However, these bats are killed for fun by vandals. In Mexico, the general public often considers all bats to be vampire bats (which sometimes spread disease to people and livestock), and thus destructive control operations kill all bats in a cave (Wilson 1985a, 1985b).

C. Disease or Predation

Bats are susceptible to various diseases, though none are now known to be seriously affecting populations of *Leptonycteris*. However, if human agency reduces a species to only a few colonies, the vulnerability of that species to natural problems increases.

D. The Inadequacy of Existing Regulatory Mechanisms

In Mexico, there are no regulations protecting bats, other than restrictions on scientific collecting, and thus *Leptonycteris* is killed along with other kinds of bats in the course of control operations (Wilson 1985a, 1985b).

E. Other Natural or Manmade Factors Affecting its Continued Existence

During the recent Service-funded status survey, investigation of a cave in Guerrero, Mexico, revealed the skeletal remains of numerous *L. nivalis*, but no live members of that species. A cave in Sonora contained a recently dead *L. sanborni*, but no live individuals. In contrast, both caves were inhabited by several other kinds of bats, some of them in large numbers. These situations suggest the existence of some unknown agent that is causing a specific die-off of the long-nosed bats (Wilson 1985a, 1985b).

The Service has carefully assessed the best available scientific information regarding past, present, and probable future problems for the species. Based on this evaluation, the preferred action is to list the Mexican long-nosed bat and Sanborn's long-nosed bat as endangered. A decision to take no action would exclude these bats from protection provided by the Endangered Species Act. A decision to propose only threatened status would not adequately reflect the evident drastic decline of these species, the near or total disappearance of most of their known large colonies, and the apparent environmental problems that may lead to further deterioration of their status and that of the ecosystems on which they depend. For the reasons given below, critical habitat is not being designated.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that "critical habitat" be designated "to the maximum extent prudent and determinable," concurrent with the determination that a species is endangered or threatened. The Service finds that designation of critical habitat for the Mexican and Sanborn's long-nosed bats is not prudent at this time. As noted in factors "A" and "B" in the above "Summary of Factors Affecting the Species," both species are easily disturbed, subject to killing by vandals, and reduced to only a few roosting colonies in the United States, the loss of which would be disastrous. Publication of precise descriptions and location maps of these colonies, such as would be involved in a critical habitat determination, could increase the vulnerability of the sites to vandals and could lead to disturbance by well-meaning tourists. The bats' survival could thus be placed in further jeopardy. Critical habitat designation is not applicable to species in areas outside of U.S. jurisdiction.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service at the earliest opportunity. Potential management actions are limited, but the use of artificial feeders and the protection of roost sites may warrant investigation. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. With respect to the listing of the Mexican and Sanborn's long-nosed bats, there would be no known substantial effects on Federal activities within the United States. An opinion of August 31, 1981, from the Office of the Solicitor, U.S. Department of the Interior, indicates that the jeopardy prohibition of section 7(a)(2) does not apply in foreign countries.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Reference Cited

Greenbaum, I.F., and C.J. Phillips. 1974. Comparative anatomy and general histology of tongues of long-nosed bats (*Leptonycteris sanborni* and *L. nivalis*) with reference to infestation of oral mites. J. Mamm. 55:489–504.

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Wilson, D.E. 1985b. Status report: *Leptonycteris sanborni* Hoffmeister. Sanborn's long-nosed bat. Rept. to U.S. Fish and Wildl. Serv., Albuquerque, 35 pp.

Wilson, D.E., D.V. Lanning, and R.A. Medellin. 1985. Bats from northeastern Mexico, with a checklist of species. U.S. Fish and Wildl. Serv., Museum Section, Washington, D.C., 30 pp.

Author

The primary author of this final rule is Alisa M. Shull, Endangered Species Biologist, Ecological Service Field Office, Fritz Lanham Building, Room 9A33, 819 Taylor St., Fort Worth, Texas 76102 (817/334–2961 or FTS 334–2961).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "MAMMALS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*			
Bat, Mexican long-nosed	*Leptonycteris nivalis*	U.S.A. (NM, TX), Mexico, Central America.	Entire	E	336	NA	NA
*	*	*	*	*			
Bat, Sanborn's long-nosed	*Leptonycteris sanborni* (=*L. yerbabuenae*).	U.S.A. (AZ, NM), Mexico, Central America.	Entire	E	336	NA	NA
*	*	*	*	*			

Dated: September 22, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–22330 Filed 9–29–88; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Shasta Crayfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines the Shasta (placid) crayfish (*Pacifastacus fortis*) to be an endangered species. This species occurs only in Shasta County, California, within the Pit River drainage system including tributaries of the Hat Creek and Fall River subdrainages. This crayfish is a slow-maturing, relatively long-lived, passive species with low fecundity. Its preferred habitat is spring-fed lakes and slowly to moderately flowing cool rivers and streams. These waters typically have low turbidity, few suspended particles, excellent water quality, little vegetation, and adequate rubble substrate. The Shasta crayfish is uncommon and the overall population

could number fewer than 3,000 individuals located in the Fall River and Hat Creek subdrainages. A survey conducted in 1985 by the California Department of Fish and Game (CDFG) showed that the Shasta crayfish has been extirpated from approximately one-half of its known range since 1978. Throughout the approximate remaining 2,000 acres of habitat, the Shasta crayfish is endangered by: competition for food and space with two aggressive, adaptive, exotic crayfish species; agricultural development; increased residential development; and aquatic habitat loss because of water diversion and impoundment projects. Continued habitat loss and degradation present substantial threats to the existence of this crayfish. This rule implements the protection provided under the Endangered Species Act of 1973, as amended (Act), for the Shasta crayfish.

EFFECTIVE DATE: October 31, 1988.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1823, Sacramento, California 98525.

FOR FURTHER INFORMATION CONTACT: Mr. Gail C. Kobetich, Field Supervisor, Endangered Species Office, at the above address (916/978–4866 or FTS 460–4866).

SUPPLEMENTARY INFORMATION:

Background

The Shasta crayfish [*Pacifastacus fortis* (Faxon)] is a decapod crustacean of the family Astacidae. William Faxon (1914) originally described this crayfish as *Astacus nigrescens fortis* from specimens taken from Fall River and Hat Creek near Cassel in 1898. Bott (1950) revised the subfamily Astacinae, creating the new genus *Pacifastacus*, which contained most of the western North American species of the subfamily. Bott (1950) limited the members of the genus *Astacus* to the Eurasian species. Bouchard (1977a) subdivided the genus *Pacifastacus* into two subgenera, *Pacifastacus* and *Hobbsastacus*. *Pacifastacus fortis*, which Hobbs (1972) elevated to a species, belongs to the subgenus *Hobbsastacus*.

Adult Shasta crayfish are small- to medium-sized crayfish which may reach 25 to 50 millimeters (1–2 inches) total length of the carapace (shell covering the back over the walking legs). The color is variable and may range from dark brownish-green to dark brown on the topside and bright orange on the underside. Occasional blue-green to light blue individuals are found in isolated populations (McGriff, personal communication 1986). These blue crayfish have a light salmon color on their undersides. Members of the Fall River population are dark orange-brown on the topside and bright red on the underside, especially on the chelae (pinchers) (Eng and Daniels 1982). These colors (except the blue) provide camouflage for the crayfish among the volcanic rubble substrates of its habitat.

The adults of *P. fortis* are sexually dimorphic and can easily be distinguished because the males have narrower abdomens and larger chelae than the females. The first two pair of swimmerets (tiny swimming legs) of the males are hard and modified for sperm transfer to the female during mating. These notable sexual characteristics can be seen in young larvae that are less than 11 millimeters (.4 inches) in total carapace length (Eng and Daniels 1982).

Pacifastacus fortis is found only in Shasta County, California, in the Pit River drainage and two tributary systems, Fall River and Hat Creek subdrainages. In the Hat Creek subdrainage, populations have been found in Lost Creek and in Crystal, Baum, and Rising River Lakes. In the Fall River subdrainage, populations occur in the following bodies of water: Fall River; Big Lake (Horr Pond); Bit Tule River; Spring, Mallard, Squaw, and Lava Creeks; and in Crystal, Thousand, and Rainbow Springs. An additional population was extirpated in Sucker Spring Creek, a tributary of the Pit River at Powerhouse I, which lies between the two subdrainages (Bouchard 1978, Eng and Daniels 1982). The populations in Lake Britton, and in Burney, Clark, Kosk, Goose, Lost, and Rock Creeks were extirpated prior to 1974 (Bouchard 1977b). Since 1978, the Shasta crayfish has been extirpated from Baum Lake and Spring Creek near its confluence with the Pit River (Darlene McGriff CDFG, personal communication 1986).

Daniels (1980) reported the relative density of *P. fortis* in Crystal Lake as 6.89 crayfish per square meter verses 0.09 crayfish per square meter for Baum Lake in 1978. He also reported an average density of 3.81 crayfish per square meter for the introduced signal crayfish (*Pacifastacus leniusculus*) in Baum Lake. Although Daniels observed one gravid signal crayfish in Crystal Lake, this exotic was not considered established at that time, and a density estimate was not calculated for it at this site. The signal crayfish is a known competitor of the Shasta crayfish and seemingly was responsible for the low density of the native crayfish in Baum Lake. Recent surveys (1986) by CDFG confirmed the loss of the Shasta crayfish population in Baum Lake and a large decline in numbers in Crystal Lake, and attributed these changes to the establishment of exotic crayfish.

During 1985 and 1986, surveys revealed that most Shasta crayfish were found in the Fall River subdrainage (McGriff, personal communication 1986). At the Spring Creek confluence with the Pit River, *P. leniusculus* and a second exotic crayfish species, *Orconectes virilis* were present, but there were no *P. fortis* in 1985 (McGriff, personal communication 1986). In a few locations, the Shasta crayfish occurs sympatrically with both exotic species; however, it is much less common at these sites. It is not known if the Shasta crayfish and the two exotic crayfish species can coexist permanently. Cases of apparent sympatry may be the result of Shasta crayfish having washed down from upstream populations and may not reflect coexisting breeding populations. All distributional information indicates that these two exotic species can outcompete native species (Bouchard 1977, Riegel 1959, Schwartz *et al.* 1963).

Shasta crayfish occur in cool, clear, spring-fed lakes, rivers, and streams, usually at or near a spring inflow source, where waters show relatively little annual fluctuation in temperature and remain cool during the summer. Most are found in lentic and slowly to moderately flowing waters. Although Shasta crayfish have been observed in groups under large rocks situated on clean, firm sand or gravel substrates (Bouchard 1978, Eng and Daniels 1982), they also have been observed on a fine, probably organic, material 1–3 centemeters (.4 to ½ inches) thick on the bottom of Crystal Lake. *Pacifastacus fortis* is most abundant where plants are absent. Another important habitat requirement appears to be the presence of adequate volcanic rock rubble to provide escape cover from predators.

Although the food habits of the Shasta crayfish are not well known, the morphology of the mouthparts suggests that the species relies primarily on predation, browsing on encrusting organisms, and grazing on detritus to obtain food. Aquatic invertebrates and dead fish probably provide food for the crayfish, although its main food source is unknown. Unlike most crayfish that feed during the day, the Shasta crayfish probably feeds mainly at night (Eng and Daniels 1982).

P. fortis, like most crayfish, is solitary, but may tolerate the proximity of other crayfish if space is limited or during courtship and mating. Similar to its congeners in its mating habits, the Shasta crayfish mates in late September

and October after the final molt (loss of previous skin and the growth of a new larger skin) of the season. Reproductive maturity of the Shasta crayfish occurs in the fifth year of life, while in the two exotic crayfish species that occur within the range, reproductive maturity occurs in the second year. Eggs of the Shasta crayfish are laid during the fall, and hatching occurs in the following spring when the water temperature increases slightly. Each newly mature mated female lays 10–70 eggs, with an average of 40 per female. The two exotic crayfish, *Orconectes virilis* and *Pacifiastacus leniusculus*, average 110 and 150 eggs, respectively, per female. In general, crayfish fecundity increases with the age of the female; older *P. fortis* females produce an average of 60 eggs per female, whereas the exotic species produce up to 200–300 eggs per female. Therefore, the introduced crayfish species have a reproductive advantage over the Shasta crayfish (Eng and Daniels 1982).

Because of its placid behavior, low fecundity, slow maturity, restricted distribution, and specialized habitat requirements, the Shasta crayfish is particularly vulnerable to habitat loss or modification (e.g., changes in the substrates (from rubble to mud bottoms) resulting from siltation caused by increased erosion of its habitat, changes in water quality parameters (increase in temperature, turbidity, hydrogen ions, and nutrients)), water pollution, and displacement by exotic crayfish species. Other threats to the survival of this species include habitat loss through modifications from diking, dredging, water diversion projects, hydroelectric projects, agricultural development, water impoundments, and increased residential development. All these habitat modifications seem to favor the two exotic species which, as discussed above, have a great reproductive advantage over the Shasta Crayfish. A more subtle threat to the Shasta crayfish is the overall increase in human use of the area for outdoor recreational purposes. For example, off-road vehicle trails that cross creeks can cause bank erosion and siltation that degrade the habitat. Fishing with exotic crayfish bait may result in introductions of additional exotic competitors.

Most of the land in the range of the Shasta crayfish is in private ownership. The U.S. Forest Service and the Bureau of Land Management administer less than 10 acres each of the Shasta crayfish habitat. The State owns the 5,890 acre Ahjumawi Lava Springs State Park that includes about 10 acres of Shasta crayfish habitat in the Fall River drainage.

The Shasta crayfish (under the common name of "placid crayfish") was proposed as a threatened species on January 12, 1977, in the **Federal Register** (42 FR 2507). Comments expressing support for the proposal were received from the CDFG and two private organizations. That proposal was withdrawn on December 10, 1979 (44 FR 70796), under a provision of the 1978 amendments to the Act that required withdrawal of all pending proposals that were not made within 2 years of the date of the proposal.

The Shasta crayfish was included in category 1 of the Service's Review of Invertebrate Wildlife for Listing and Endangered or Threatened Species (49 FR 21666; May 22, 1984). Category 1 comprises taxa for which the Service has substantial evidence to support the biological appropriateness of proposing endangered or threatend status. In that notice, the Service, following the suggestion of Eng and Daniels (1982), used the common name Shasta crayfish rather than placid crayfish, the name used in the earlier proposal of threatened status.

In the summer of 1978, the CDFG and the U.S. Forest Service initiated studies to further determine the distributon of *P. fortis* and gather biological and ecological information necessary for its conservation (see Eng and Daniels 1982). The maps of the distribution of the Shasta crayfish generated in 1979 by CDFG were amended from information gained during a 1985 survey of the distribution and population status of the crayfish. These updated maps and additional data constitute significant new information on which to make a determination of endangered status for the Shasta crayfish.

In the **Federal Register** of July 10, 1987 (52 FR 26036), the Service proposed the Shasta crayfish as an endangered species. A notification extending the comment period beyond September 8, 1987, to November 8, 1987, was published in the **Federal Register** (52 FR 22979) on September 9, 1987.

Summary of Comments and Recommendations

In the July 10, 1987, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Record Searchlight* (September 3, 1987) and the *News* (September 3, 1987), both of which invited general public comment.

During the comment period, totalling approximately 4 months, eight comments on the listing were received. Two additional comments were received after the close of the comment period and are noted as ex parte communications. Of the 10 letters of comment, 5 supported listing (two state agencies, one conservation organization, and two private citizens) and 2 did not (two private citizens); 3 offered no substantive information (two Federal agencies and one private citizen).

Support for the listing proposal was expressed by a conservation organization and two other interested parties. Ex parte comments from the CDFG and California Department of Parks and Recreation supported the listing and presented additional status information on the crayfish. Opposing comments and other comments questioning the rule can be placed in a number of general groups. These categories of comments and the Service's response to each are listed below.

Comment 1: Two questions from private citizens were raised pertaining to the available biological information on the crayfish. Have there been recent studies to determine that the species is continuing to decline? A request was made to conduct more studies on the species to determine if the crayfish is really endangered. One commenter stated that crayfish are abundant in irrigation canals. A commenter stated that the Shasta crayfish has made a comeback in the last 3 years. Concern was expressed about the possibility of a premature listing.

Service response: The Service finds that surveys conducted between the 1960's and 1987 by qualified biologists familiar with the Shasta crayfish and its habitats provide adequate information on the distribution, habitat requirements, and most importantly, threats to the species to warrant the present action for the Shasta crayfish (See discussion under Factor A). Further studies on the distribution and actual numbers would consume additional time during which the crayfish would not be Federally protected. Pertinent studies on the habitat requirements of the crayfish are listed in the References Cited section of the proposed rule and the final rule. In some cases, the data were supplied by personal communications with field biologists and are noted in the text. The State of California, recognizing the decline in the Shasta crayfish, listed it as rare in 1980, and reclassified it as

endangered in 1987. The species continues to lose habitat and decline in distribution and population size. Therefore, based on the available information regarding the status of the Shasta crayfish, the Service believes immediate listing is warranted.

The numerous "crawdads" observed by one private citizen in the rice field drainage ditches and other degraded habitats, are not likely to be the Shasta crayfish but rather one or both species of exotic competitors. The Shasta crayfish cannot tolerate pollutants such as those that would be expected in agricultural drainage canals. In contrast, the competitors appear to thrive in nutrient enriched habitats. In the Background and Factors Affecting the Species sections, the biological and habitat requirements of the Shasta crayfish are described more fully.

Comment 2: One commenter (a private landowner) stated his belief that the Shasta crayfish was proposed for listing only to enable the CDFG to gain control of the Fall River and its tributaries.

Service response: The decision to list the species must be based on the best available biological information on the status of the Shasta crayfish. A species must qualify under at least one of the five factors specified in the Endangered Species Act to be listed. Furthermore, the Shasta crayfish was proposed for listing only because the Service believed the species met the requirements for endangered status as specified by the Act, and for no other reason.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Shasta crayfish (*Pacifastacus fortis*) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*), and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Shasta crayfish (*Pacifastacus fortis*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The total population of Shasta crayfish, when sampled in 1978 by Daniels (1980), was estimated to be fewer than 6,000 individuals. With the recent confirmed loss of the population in Baum Lake and the large decline in Crystal Lake of the Hat Creek subdrainage, the total population probably numbers fewer than 3,000 individuals. It has also been extirpated from a site in the Fall River subdrainage near its connection to the Pit River. At the present rate of extirpation, with at least three out of 15 sites being lost since 1978 and possibly only one site remaining in the Hat Creek subdrainage, it is conceivable that very shortly the Shasta crayfish may become restricted only to the Fall River subdrainage.

Water diversion and impoundment projects have adversely affected the Shasta crayfish by modifying the habitat into large quiet lakes with silt and mud bottoms and an increase in aquatic vegetation. These modifications have made the habitat more suitable for the two exotic crayfish species than the Shasta crayfish. The exotic species have done very well in these areas, and have displaced the Shasta crayfish. Lake Britton, and Baum and Crystal Lakes are examples of areas where these types of habitat modifications have led to the displacement of the Shasta crayfish in recent times.

Numerous hydroelectric projects have been constructed on Hat Creek and the Pit River since the early part of the century. Lake Britton and Baum Lake are manmade reservoirs used for hydroelectric power production, water impoundment, and recreation. These installations have adversely affected the Shasta crayfish by blocking access and egress to refugia in the remaining spring pools. These refugia formerly served as sources of immigrant individuals for re-establishing populations that had become locally extirpated from suitable habitat as the result of natural events (i.e., flooding, landslides, and log or debris jams). These manmade dam installations isolate and separate Shasta crayfish populations to such an extent that when habitats become available, they are unable to recolonize them.

Agricultural development and more recently residential development within the range of the Shasta crayfish have increased demands on the water resources, thus lowering the water table and causing seasonal interruptions of spring flow. This has occurred on some of the small unnamed tributaries of Fall River and Hat Creek (R. Brown, CDFG, personal communication, 1986). Increased residential development on Fall River, including the headwater spring areas at Lava Creek, is resulting in increased human use of the area and associated pollution that may adversely affect the crayfish (CDFG, letter dated November 23, 1987). In conjunction with the increase in water usage, an extensive, diverse agricultural industry has caused an increase in the use of pesticides in the area. These pesticides, when washed into the waterways, can kill aquatic invertebrates directly or over a period of time by bioaccumulation.

Livestock grazing near watercourses also leads to increased turbidity in some of the streams. Turbidity inhibits the penetration of sunlight to lower depths of the spring pools, where it promotes the growth of encrusting organisms on which the crayfish feeds. This increase in murkiness of the water also causes an increase in predation because the Shasta crayfish is unable to detect predators. Pasture runoff increases the nutrients in the streams, thus increasing planktonic (free-floating) algal and aquatic macrophyte growth. Because Shasta crayfish prefer areas with sparse plant growth, these areas become less suitable for the crayfish. Further, such conditions encourage invasion by the two exotic crayfish species that outcompete the Shasta crayfish.

B. *Overutilization for commercial, recreational, scientific, or educational purpose.* The incidental capture of Shasta crayfish for human consumption may occur. Although the Shasta crayfish is not the target of the catch, it is extremely vulnerable to such pressures because of its placid behavior. Its low fecundity, and long maturation period will result in low recruitment.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* In 1980, the California State Fish and Game Commission listed the Shasta crayfish as a rare species under State law. It was reclassified as endangered in 1987, thus offering protection from take, possession, or sale within the State of California. Other State regulations prohibit the take, possession, or use for bait of any crayfish species at any time of year within the range of *P. fortis*. These regulations were enacted to protect the Shasta crayfish and prevent the spread of exotic crayfish by unintentional introductions. Because of the large size and remoteness of the area, these regulations are difficult to enforce.

E. *Other natural or manmade factors affecting its continued existence.* The spread of the two exotic crayfish species, *Pacifastacus leniusculus* and *Orconectes virilis*, into the range of the Shasta crayfish continues at an alarming rate. Both species are recent introductions to the Pit River drainage (Daniels 1980). These species compete for food, space, and other resources with the Shasta crayfish. Because they are more fecund and mature much faster

than the Shasta crayfish, and have less specific habitat requirements, the exotic crayfish have been successful in colonizing the modified habitat and in displacing the Shasta crayfish. Since *O. virilis* is probably able to move overland under conditions of high humidity, it may invade the Fall River as it has Hat Creek. Both exotic species have displaced native species in other regions (Bouchard 1977a,b; Riegel 1959; Schwartz *et al.* 1963). If the habitat of *P. fortis* continues to be degraded and becomes better suited for the exotic species, the Shasta crayfish may be displaced from its remaining habitat in the near future. With the introduction of the exotic crayfish, the populations of Shasta crayfish in Crystal and Baum Lakes, Lake Britton, Clark, Rock, Goose, Kosk, Lost, and Spring Creeks have been lost, thus significantly reducing the limited range of the native crayfish. These extirpations occurred in less than 10 years.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Shasta crayfish as endangered. Its significantly reduced distribution, competition from exotic crayfish species, loss of habitat, and substantial potential for continued habitat modification or loss indicate that the species warrants endangered rather than threatened status. Critical habitat is not being designated for the species at this time for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Shasta crayfish at this time. As discussed under Factors D and E in the "Summary of Factors Affecting the Species," State laws to protect the Shasta crayfish from taking and from introductions of exotic crayfish species are difficult to enforce. Publication of critical habitat descriptions and maps in the **Federal Register** would make this species and its habitats more vulnerable to possible taking and vandalism and would increase enforcement problems. All involved parties and landowners will be notified of the locations and importance of protecting this species' habitat. Protection of the habitat of the Shasta crayfish will be addressed through the recovery and Section 7 consultation processes. Therefore, it would not be prudent to determine critical habitat for the Shasta crayfish at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Some Federal involvement with the U.S. Army Corps of Engineers and the Federal Energy Regulatory Commission (FERC) permitting processes for hydroelectric facilities is anticipated. Federal involvement with the Soil Conservation Service bank protection and repair projects addressing damage caused by cattle grazing is expected.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this rule is Dr. Jeurel Singleton, Sacramento Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1823, Sacramento, California (916/978–4866 or FTS 460–4866).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "CRUSTACEANS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species								
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules	
CRUSTACEANS								
*	*	*	*	*	*	*	*	
Crayfish, Shasta (=placid)	Pacifastacus fortis	U.S.A. (CA)	NA	E	337	NA	NA	
*	*	*	*	*	*	*	*	

Dated: September 22, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–22399 Filed 9–29–88; 8:45 am]

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Stephens' Kangaroo Rat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines the Stephens' kangaroo rat (*Dipodomys stephensi*), a small mammal found in southern California, to be an endangered species. The species has suffered widespread habitat loss and degradation, resulting in small isolated populations. This rule implements the protection provided by the Endangered Species Act of 1973, as amended (Act), for the Stephens' kangaroo rat.

DATE: The effective date of this rule is October 31, 1988.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, 24000 Avila Road, Laguna Niguel, California 92656.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy M. Kaufman, field supervisor, at the above address (714/643–4270 or FTS 796–4270).

SUPPLEMENTARY INFORMATION:

Background

The Stephens' kangaroo rat (*Dipodomys stephensi*) is a small mammal of the rodent family Heteromyidae. Like other kangaroo rats, it has a large head, external cheek pouches, elongated rear legs used for jumping, and relatively small front legs. The front feet are frequently used to hold seeds that the animal eats. There are five toes on the hind foot and the tail is 1.45 times the length of the head and body. The Stephens' kangaroo rat is distinguished from the sympatric agile kangaroo rat (*Dipodomys agilis*) by a lateral white tail band that is one half or less (rather than one half or more) times the width of the dorsal tail stripe, dusky (rather than dark) soles on the hind feet, a more grizzled appearance to the dorsal tail stripe due to many white hairs, a darker tail tuft due to fewer white hairs, a smaller ear (averaging 0.5 inch [15 millimeters] in length), and a relatively broad head. The average adult Stephens' kangaroo rat is 11 to 12 inches (277 to 300 millimeters) in length and weighs 2.3 ounces (67 grams) (Bleich 1977).

The Stephens' kangaroo rat was first described by Merriam (1907) as *Perodipus stephensi*. The type locality is the San Jacinto Valley, a little west of the town of Winchester, Riverside County. Grinnell (1921) placed the species in the genus *Dipodomys*. Huey (1962) described a kangaroo rat from the San Luis Rey River valley as *Dipodomys cascus*. However, Lackey later (1967a) determined *D. cascus* to be a synonym of *D. stephensi*.

The Stephens' kangaroo rat is endemic to the Perris and San Jacinto Valleys in western Riverside County and the San Luis Rey and Temecula Valleys in northern San Diego County (Grinnell 1922, Lackey 1967a, O'Farrell and Uptain 1986, Thomas 1973). Occupied habitats are usually described as sparse, slightly disturbed coastal sage scrub or annual grassland. The actual distribution of suitable habitat is normally mixed with other habitat types in a natural mosaic. The populations with the highest densities have been found in areas where the herbaceous layer still contains California native annuals, and where perennial cover is less than 30 percent (Hogan 1981). The Stephens' kangaroo rat is most commonly associated with *Artemisia californica* and *Eriogonum fasciculatum* because these shrubs are often the most obvious elements of the habitat. The animal is actually using the herbaceous layer which is often dominated by filaree (*Erodium cicutarium*). Many areas supporting the species are shrubless (O'Farrell, 1988 pers. comm.). The Stephens' kangaroo rat occurs on level or low rolling terrain; it is not found on extremely hard or sandy soils (Lackey 1967a). Bleich (1977) noted that gravel is a common component of soils where the animal is found.

All of the occupied sites found by Thomas (1973) had been previously disturbed, usually by plowing. Remnant

populations that survived at the natural edges had reinvaded after the fields had been left fallow. At that time most populations were considered isolated from one another and were found predominantly in the western portions of the range. Rapid urbanization has reinforced this pattern.

Like all kangaroo rats, *D. stephensi* is nocturnal, spending the day in underground burrows and foraging on the surface at night. Pregnant and lactating females have been caught in the spring and summer months (Lackey 1967b). To date, few population density studies have been completed and none have covered an entire year. Relatively high densities (over 20 per acre or 50 per hectare) have been found during the summer months when the young are out of the nest (Thomas 1975). Hogan (1981) reported fall-winter densities of about 2.5 to 6 per acre (6 to 15 per hectare). According to Dr. Michael J. O'Farrell (private consultant, Santa Ynez, California), high density areas contain over 4 animals per acre (10 per hectare), moderate density areas support about 2 to 4 animals per acre (5 to 10 per hectare), and low density areas contain less than 2 per acre (5 per hectare). Most of the occupied range probably has low to moderate density populations.

Most remaining habitat for the Stephens' kangaroo rat is in private ownership. Federal agencies or installations with land holdings supporting this species include March Air Force Base, Fallbrook Naval Weapons Annex, Camp Pendleton Marine Corps Base, and the Bureau of Land Management. The Vista Irrigation District, Metropolitan Water District, and State of California also own comparatively large blocks of suitable habitat.

In its original Review of Vertebrate Wildlife, published in the **Federal Register** of December 30, 1982 (47 FR 58454–58460), the Service included *D. stephensi* in category 2, meaning that information then available indicated that a proposal to determine endangered or threatened status was possibly appropriate, but was not yet sufficiently substantial to support such a proposal. Subsequently, many new data on the species became available, and in its revised Vertebrate Review of September 18, 1985 (50 FR 37958–37967), the Service included *D. stephensi* in category 1, meaning that substantial information was on hand to support the biological appropriateness of proposing to list as endangered or threatened. The Service published the proposed rule for this species on November 19, 1987 (53 FR 44453–44456).

Summary of Comments and Recommendations

In the November 19, 1987, proposed rule (52 FR 44453–44456) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The public comment period was extended twice, until April 19, 1988, to accommodate a requested public hearing held on March 11, 1988 (53 FR 5022), and again until June 20, 1988, to allow for the receipt of additional comments (53 FR 17964). Hence, the total comment period was 7 months. A newspaper notice was published in the *Los Angeles Times* on December 5, 1987, the *Riverside Press Enterprise* on December 17, 1987, and the *San Diego Union* on December 15, 1987, announcing the proposed rule and requesting comments. Announcements for the public hearing were published in the above newspapers on March 9, 1988. A total of 11 individuals and organizations submitted written comments. Two people provided oral testimony at the public hearing.

The only opposing statement was received from the U.S. Air Force, which was the only Federal agency to submit comments. The California Department of Fish and Game submitted supporting comments, and provided a copy of a recent status update. The cities of Moreno Valley and Riverside provided neutral comments and submitted information on the status of the species within their boundaries. One utility company and a water district also submitted neutral comments. One conservation organization, and two researchers also submitted supporting comments. Twelve individuals submitted signed photocopies of the same supporting letter, which were treated as one comment. Of the 11 comments received, 7 supported listing, 1 opposed, and 3 were neutral. The written and oral comments received are grouped under issues and discussed below:

Issue 1: The Stephens' kangaroo rat should not be listed as endangered until its range is more accurately delineated. The species may be more widespread than previously thought.

Service Response: The total range of the Stephens' kangaroo rat has been well documented (Bleich 1977, Lackey 1967a, Price and Endo 1988, Thomas 1973, Thomas 1975, O'Farrell and Uptain 1986). It is unlikely that this small mammal occurs outside of this range. The presence or absence of the Stephens' kangaroo rat at specific locations within this range is sometimes uncertain. Furthermore, the population densities of this species fluctuate greatly from one year to the next (Price and Endo 1988), hence, suitable habitat may not always be occupied. The discussions under Factor A regarding habitat loss and Factor E regarding habitat fragmentation indicate that the threats facing the kangaroo rat are occurring range-wide. To wait until the species' occurrence is more precisely known would allow the present rate of habitat loss to continue unabated, making extinction of the species more likely.

Issue 2: Once the kangaroo rat is listed, the Federal and other public lands containing the species will become defacto reserves for this species. The Service may have "written-off" privately owned parcels for purposes of establishing Stephens' kangaroo rat reserves. All land owners should share in the burden of Stephens' kangaroo rat protection.

Service Response: The lands now held in public ownership are not sufficient to ensure the maintenance of the species in perpetuity. Consequently, the preservation of many presently privately owned parcels likely will be necessary. The Canyon Lake Property Owners Association has expressed interest in actions intended to preserve Stephens' kangaroo rat habitat. The County of Riverside has formed a committee to begin the development of a Habitat Conservation Plan for the kangaroo rat. A key feature of this program is to identify the best Stephens' kangaroo rat habitat in Riverside County for the establishment of viable reserves and develop the means to provide permanent protection and management for these sites. Many of the public parcels contain the species because the major public purpose of the land is at least partially compatible with preservation of the Stephens' kangaroo rat.

Issue 3: Many land uses appear to be compatible with the preservation of Stephens' kangaroo rats. For example, the species occurs along power line corridors, in grazed areas, at a solar facility, near napalm storage crates on military lands, and in areas where off-road vehicle travel has occurred.

Service Response: The habitat requirements of the Stephens' kangaroo rat are not well defined. The species does appear to need some bare ground, and the habitat is usually described as being open or sparsely vegetated. Consequently, land uses that cause artificial disturbance and perpetuate the sparse nature of the habitat may be compatible with the preservation of the species. However, further study is needed to determine which kinds of

disturbances under what circumstances truly are compatible. During a recent 1–year study (O'Farrell 1988, pers. comm.) noted a population increase of Stephens' kangaroo rats following development of a solar facility. The population change was attributed to increased protection from predators and increased herbaceous growth. Given that populations of this species fluctuate greatly from year to year (Price and Endo 1988), conclusions based on this short time period should be drawn conservatively. Thus, further careful study is needed to confidently assess the long-term impacts of various land uses on this species. Nevertheless, despite the fact that some land uses may be compatible, the primary threat to this species is permanent loss and fragmentation of habitat resulting from urbanization and other land uses.

Issue 4: In the proposed rule, it was suggested that some small land areas lacked viable populations; however, apparently this is not the case.

Service Response: The areas referred to were fairly small, approximately 40 acres (100 hectares) in size. As discussed below under Factor E, such small areas would support the species indefinitely. Although the population size that would be needed for viability is not known, it may contain 500 or more individuals Additionally, on most lands supporting the species, not all habitat is suitable or occupied by Stephens' kangaroo rats; consequently, a viable population would more likely require several square miles. However, further study is needed to determine how many animals are needed for a viable population, and how much land they require.

In summary, no information was received indicating that the species is more widespread or under a lesser degree of threat than was originally thought.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Stephens' kangaroo rat should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Stephens' kangaroo rat (*Dipodomys stephensi*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat and range of the Stephens' kangaroo rat have been greatly reduced. The species probably once occurred through annual grassland or sparse coastal sage scrub communities of the Perris and San Jacinto Valleys and up adjoining washes in southern California. As the flatter plains were developed by people, however, the kangaroo rat became confined to isolated bases of low rolling hills and level ridge tops.

Price and Endo (1988) have completed a mapping effort focusing on suitable soil types and relatively flat topography to compare the amount of estimated habitat available to the Stephens' kangaroo rat prior to Twentieth-century agriculture and again in 1984 in Riverside County. Price and Endo (1988) estimated that approximately 308,195 acres (124,775 hectares) of potential habitat originally existed for this species. In 1984, 124,779 acres (50,518 hectares) remained. Habitat had been lost due to urban and agricultural developments. Moreover, of the remaining habitat patches, 84 percent were less than 1 square kilometer (384 acres) in size. Only 21,212 acres (8,588 hectares) remained in patches larger than one square kilometer (Price and Endo 1988). Cursory observations indicate that since 1984, the situation has worsened. Most recent habitat loss is the result of urban development and is permanent; losses from agricultural development are less severe because Stephens' kangaroo rats can reinvade plowed fields following abandonment (Thomas 1973, 1975).

Some areas in public ownership contain substantial habitat for *D. stephensi*. O'Farrell and Uptain (1986) indicated that approximately 12,600 acres (5,100 hectares) of suitable habitat remain at Lake Henshaw and that another 4,940 acres (2,000 hectares) appear suitable on the Fallbrook Naval Weapons Annex. The species, however, probably has been extirpated between the latter facility and the San Luis Rey River. The Metropolitan Water District owns some habitat surrounding Lake Mathews where, including contiguous private parcels, an area of about 17,000 acres (6,800 hectares) remains, although not all of this habitat is suitable. Many proposed projects, however, threaten the land surrounding Lake Mathews.

No attempt to trap the species has been made at Lake Perris since 1973. On the east side of the San Jacinto Valley, it is now restricted mainly to insular patches at the edges of plowed fields. It is similarly restricted in the Lakeview Mountains, where only a few thousand non-contiguous acres are now thought to contain adequate habitat. The species has been reported on the Beaumont-Banning Plain; however, this area is also undergoing rapid urbanization. The U.S. Bureau of Land Management (Bureau) owns some parcels near Lake Elsinore, but survival of the kangaroo rat there is tenuous because of rapid urbanization and an expected increase in casual human use (off-road vehicles already have been noted). Land exchanges are being pursued to consolidate these Bureau parcels to provide a viable preserve for the Stephens' kangaroo rat.

Further compounding the fragmented nature of the current distribution is the fact that the Stephens' kangaroo rat does not occupy all apparently suitable habitat (Friesen 1985a). Relatively large areas may include only a small percentage of occupied habitat. Grazing, off-road vehicle activity (common in southern California), and rodent control programs all potentially reduce habitat suitability.

These habitat losses are likely to continue. An examination of Riverside County's General Plan guidelines revealed that 78 percent of the sites where the kangaroo rat has been trapped are zoned for use incompatible with preservation of the species. Only 3 percent of the sites were zoned for vegetation or wildlife protection, and much of this land is not suitable for the kangaroo rat. Within the overall range of the Stephens' kangaroo rat, only 6 percent of the land is zoned for uses compatible with the preservation of the species. Because not all of the habitat in this 6 percent is suitable, much less is available for the kangaroo rat. Although biological consultants have sometimes located the species and informed appropriate land owners or project proponents, some of the sites, nonetheless, have been disked or plowed.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not now known to be applicable.

C. *Disease or Predation.* Not now known to be applicable. However, many areas of occurrence are adjacent to urban neighborhoods and increased predation from domestic and feral cats can be expected (Friesen 1985b).

D. *The inadequacy of existing regulatory mechanisms.* The California State Fish and Game Commission has listed the Stephens' kangaroo rat as threatened. Recently, the Department of Fish and Game recommended that the kangaroo rat's status be upgraded to endangered. The California Endangered Species Act (State Act) of 1985 provides

protection from take, and contains provisions that call for a consultation process, similar to Section 7 of the Federal Act, when a State lead agency's project may affect a State-listed species. The regulations implementing the consultation process under the State Act were not completed until June of 1986, and it is still unclear how effective the State Act will be. Few State agencies are expected to propose State projects as defined under the State Act. Under the California Environmental Quality Act, an attempt is made to "mitigate" for losses of occupied Stephens' kangaroo rat habitat. This procedure has been inadequate because the usual suggested "mitigation" measures presented in most proposed projects consist of preserving habitat in another location. There is thus a constant, ongoing habitat loss. Additionally, because the species does not occupy all suitable habitat, losses of unoccupied habitat remain uncompensated.

County zoning restrictions do not now provide adequate protection for the kangaroo rat and its habitat. Although "open space" designations are sometimes made, these can be altered to allow subdivision and development. Only a small fraction of the involved land is currently zoned for uses compatible with the preservation of the kangaroo rat (see "Factor A" above).

Federal lands form only a small part (approximately 15 percent) of the range of the species. Although a significant population of *D. stephensi* may occur on the Fallbrook Naval Weapons Annex, the Navy has no established policy regarding the protection of sensitive species. The involved Bureau of Land Management-administered lands are small and also lack specific protective policies, however, the Bureau does intend to consolidate some of its holdings through land exchanges and provide a reserve for the Stephens' kangaroo rat.

E. *Other natural or manmade factors affecting its continued existence.* Coastal sage scrub plant communities may become less sparse through time. As plant density and ground cover increase, patches of habitat would become unsuitable for Stephens' kangaroo rat.

The State recreation areas have rodent control programs that probably adversely affect the Stephens' kangaroo rat populations. Consultants also have noted the disappearance of kangaroo rat sign due to unkown causes. A hypothesis concerning such unexplained disappearances is that rodenticides have been used.

Further compounding the habitat loss and degradation referred to under Factor A is the fragmented nature of the remaining habitat. Price and Endo (1988) have provided an estimate of original habitat and that available in 1984 based upon mapping of soil types. This effort has revealed approximately 84 percent of the remaining habitat patches are less than 1 square kilometer in extent. The size of a reserve that would be needed to support the Stephens' kangaroo rat in perpetuity is currently unknown; however, preliminary estimates indicate that it may be close to 6 square miles (1,536 hectares). Thus, most remaining habitat patches cannot be expected to support the species indefinitely.

Populations occupying fragments can be more easily extirpated from unpredicatable natural catastrophes such as floods, fires, or disease outbreaks. Many of the habitat patches supporting the species are less than 10 acres (4 hectares) in size. Areas this small support such low numbers of Stephens' kangaroo rats that fluctuations in birth and death rates, unequal sex ratios, and loss of genetic diversity can be expected to adversely affect the survival of these populations.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based upon this evaluation, the preferred action is to list the Stephens' kangaroo rat as endangered. Threatened status would not adequately reflect the drastic habitat decline that already has occurred and the continued rapid habitat loss that is likely to occur in association with human activity. Although certain sites supporting the species receive some protection, these areas have management problems that could adversely affect the kangaroo rat. For the reasons given below, a critical habitat designation is not included in this rule.

Critical Habitat

Section 4(a) of the Endangered Species Act, as amended, requires that "critical habitat" be designated "to the maximum extent prudent and determinable," at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent or determinable for *D. stephensi* at this time. For example, as discussed after factor "A" in the "Summary of Factors Affecting the Species," some landowners or project developers have disked or plowed their lands upon the discovery of this species. Populations in other areas have mysteriously disappeared following discovery, possibly from rodenticide use. Prevention of take, as described in Section 9 of the Act, would be difficult to enforce under these circumstances. Publication of critical habitat descriptions and maps would likely make the species more vulnerable and increase enforcement problems. Affected parties and landowners will be notified of the location and importance of protecting this species' habitat. Protection of the species' habitat will be addressed through the recovery process and through the Section 7 jeopardy clause as described below.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, County, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

Several Federal actions may involve *D. stephensi*. The Bureau of Land Management owns several isolated parcels supporting the species (Hicks and Cooperrider 1975). The Bureau is interested in consolidating its land holdings within this area and has proposed that this effort could result in the formation of all or part of a reserve for this species. The Veterans Administration or Federal Housing Administration may finance housing loans in areas where the species now

occurs. The U.S. Army Corps of Engineers may permit or carry out flood control projects in sandy washes where the species has been found. The U.S. Air Force has proposed activities such as a housing development project on March Air Force Base which may involve the Stephens' kangaroo rat. The U.S. Marine Corps and U.S. Navy also own land that supports this species. To facilitate survival of the kangaroo rate on public lands, it would be necessary to carry out conducive management activities, such as preserving natural habitat where it now exists, conducting controlled burns to keep vegetation at the low densities favored by the species, and other activities.

The Act and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import, or export, ship in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this rule is Karla Kramer, U.S. Fish and Wildlife Service, 24000 Avila Road, Laguna Niguel, CA 92656 (714) 643–4270 or FTS 796–4270.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Part 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Mammals," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Rat, Stephens' Kangaroo	*Dipodomys stephensi*	U.S.A. (CA)	Entire	E	338	NA	NA

Dated: September 22, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-22400 Filed 9-29-88; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Sarracenia rubra ssp. jonesii (Mountain Sweet Pitcher Plant)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Sarracenia rubra* ssp. *jonesii* (mountain sweet pitcher plant), a perennial insectivorous herb limited to 10 populations in North and South Carolina, to be an endangered species under authority of the Endangered Species Act of 1973, as amended (Act). *Sarracenia rubra* ssp. *jonesii* is endangered by drainage and other forms of habitat destruction and by collecting. This action will implement Federal protection provided by the Act for *Sarracenia rubra* ssp. *jonesii*.

EFFECTIVE DATE: October 31, 1988.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Sarracenia rubra ssp. *jonesii* was first described by E.T. Wherry (1929) from material collected in North Carolina in 1920. The taxonomy of this genus is extremely complex, with extensive natural hybridization documented (Bell 1949, 1952). There has been substantial disagreement about the taxonomic classification of *Sarracenia rubra* ssp. *jonesii*, with different authors having treated it as a regional variant (McDaniel 1971), a form (Bell 1949), a subspecies (Wherry 1972, Schnell 1977, 1978), and as a distinct species (Wherry 1929, Case and Case 1976, McDaniel 1986). If *Sarracenia rubra* ssp. *jonesii* is formally redescribed as a full species (as recommended in McDaniel's 1986 report) after it is added to the List of Endangered and Threatened Plants, an editorial change to the list will be made to reflect this nomenclatural change.

Sarracenia rubra ssp. *jonesii* is an insectivorous, rhizomatous, perennial herb, which grows from 21 to 73 centimeters tall. The numerous erect leaves grow in clusters and are hollow and trumpet-shaped, forming slender, almost tubular pitchers (inspiration for the most frequently used common name) covered by a cordate hood. The pitchers are a waxy dull green, usually reticulate-veined with maroon-purple. The tube of the pitchers is retrorsely hairy within and often partially filled with liquid and decayed insect parts. The uniquely showy and fragrant flowers have recurving sepals, are borne singly on erect scapes, and are usually maroon in color. The species blooms from April to June, with fruits developing in August (Massey *et al.* 1983, Wood 1960). Reproduction is by seeds or by fragmentation of rhizomes. *Sarracenia rubra* ssp. *jonesii* can be distinguished from other subspecies of *Sarracenia rubra* by its greater pitcher height, scape length equal to pitcher height, long petiole, abruptly expanded pitcher orifice, cordate and slightly reflexed hood, and petals and capsules, which are twice as large as those of other *Sarracenia rubra* (Massey *et al.* 1983, Sutter 1987, Wherry 1929).

Other common names of pitcher plants include trumpets, bugle-grass, bod-bugles, dumb-watches, watches, buttercups, Eve's cups, biscuit flowers, frog bonnets, fly bugles, and huntsman's cups (Wood 1960, Radford *et al.* 1964). The many common names are illustrative of the fascination generated by these unique organisms. The evolutionary role of carnivory in such plants as *Sarracenia rubra* ssp. *jonesii* is not fully understood, but some evidence indicates that absorption of minerals from insect prey may allow carnivorous species to compete in nutrient-poor habitats (Folkerts 1977). Insects are attracted by nectar secreted from glands near the pitcher orifice, or by the plant's coloration, and fall or crawl into the pitchers. Just inside the mouth of the pitcher tube is a very smooth surface, offering no foothold to most insects; below this the pitcher is lined with stiff downward-pointing hairs which assist descent and virtually prevent ascent. Those insects which cannot escape are eventually digested by enzymes in the fluid secreted inside the pitchers.

Sarracenia rubra ssp. *jonesii* is a plant endemic to a few mountain bogs and streams in southwestern North Carolina and northwestern South Carolina along the Blue Ridge Divide. Twenty-six populations of *Sarracenia rubra* ssp. *jonesii* have been reported historically; 10 remain in existence. Four of these populations are in Henderson and Transylvania Counties, North Carolina, and six are in Greenville County, South Carolina. Eight of the remaining populations are located on privately owned lands, and two populations are located on pubic lands administered by the South Carolina Wildlife and Marine Resources Department and the South Carolina Department of Parks, Recreation, and Tourism. The continued existence of this species is threatened by drainage, impoundment, grazing and cultivation, natural succession, commercial and scientific collection, and development for recreational, residential, and industrial facilities.

Most of the remaining populations are extremely small, with some covering an area of less than 50 square feet. Any significant alteration of the hydrology of these sensitive sites could further jeopardize the species. The site owned by the South Carolina Wildlife and Marine Resources Department is protected. However, the other publicly owned site is part of the State parks system in South Carolina and is vulnerable to any significant increase in intensity of recreational use. The remaining eight sites in private ownership are vulnerable to destruction by habitat alteration or by taking of plants by amateur and professional collectors.

Federal government actions on this species began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. The Service pubished a notice in the July 1, 1975, **Federal Register** (40 FR 27832) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) [now Section 4(b)(3)] of the Act and of its intention thereby to review the status of the plant taxa named within. *Sarracenia rubra* ssp. *jonesii* was included in the Smithsonian report and in the July 1, 1975, Notice of Review. On December 15, 1980, the Service published a revised Notice of Review for Native Plants in the **Federal Register** (45 FR 82480). *Sarracenia rubra* ssp. *jonesii* was included in that notice as a category-1 species. Category-1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened species. A revision of the 1980 notice that maintained *Sarracenia rubra* ssp. *jonesii* in category-1 was published on September 27, 1985 (50 FR 39526).

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Sarrecenia rubra* ssp. *jonesii* because of the acceptance of the 1975 Smithsonian report as a petition. In October of 1983, 1984, 1985, 1986, and 1987, the Service found that the petitioned listing of *Sarracenia rubra* ssp. *jonesii* was warranted but precluded by other listing actions of a higher priority and that additional data on vulnerability and threats were still being gathered.

On February 10, 1988, the Service published, in the **Federal Register** (53 FR 3901), a proposal to list *Sarracenia rubra* ssp. *jonesii* as an endangered species. That proposal constituted the final finding as required by the 1982 amendments to the Endangered Species Act.

Summary of Comments and Recommendations

In the February 10, 1988, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in *The Times-News* (Hendersonville, North Carolina) and the *Greenville News* (Greenville, South Carolina) on February 20, 1988, and February 21, 1988, respectively.

Eight comments were received. Of these, six respondents expressed support for the proposal, including the Natural Heritage Program of the North Carolina Department of Natural Resources and Community Development; the Plant Conservation Program of the North Carolina Department of Agriculture; the South Carolina Nature Conservancy; a South Carolina chapter of the Sierra Club; and the U.S. Army Corps of Engineers, Wilmington District (Corps). Two comments were received which offered no new information and did not state a position on the proposal. The Corps indicated their intent to assert regulatory jurisdiction over the species' habitats, which would normally be covered under Nationwide Permit No. 26 (33 CFR 330.5(a)(26)). The Corps' response further stated that the listing of this species as endangered was not expected to significantly affect their regulatory activities in the area and stated the belief that, ". . . its listing will be an important step toward assuring its survival."

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Sarracenia rubra* ssp. *jonesii* should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Sarracenia rubra* ssp. *jonesii* Wherry (mountain sweet pitcher plant) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range

Ten populations of *Sarracenia rubra* ssp. *jonesii* are known to exist in Henderson and Transylvania Counties, North Carolina, and Greenville County, South Carolina. Sixteen other historically known populations have been extirpated due to drainage, impoundment, grazing and cultivation, collection, and development for recreational, residential, and industrial purposes. At least 2 of the remaining 10 populations have also been damaged to some extent by these activities. Only two of the extant populations are afforded some protection from human-induced habitat alterations; neither of these is protected from commercial or private collectors. Of the 16 populations that have been extirpated, at least 6 were eliminated by drainage of their habitat, 4 were flooded by impoundments, 3 were destroyed by construction of golf courses, 2 were eliminated by industrial development, and 1 was destroyed when its habitat was converted to agricultural use (Charles Moore, Brevard, North Carolina, personal communication, 1987; R. Sutter, North Carolina Plant Conservation Program, personal communication, 1987). Eight of the remaining 10 populations are currently threatened by habitat alteration. In some cases this takes the form of natural succession, with woody species encroaching onto the site, resulting in a drier, shadier habitat which is unsuitable for *Sarracenia rubra* ssp. *jonesii*. The area occupied by the species is rapidly developing as a center of tourism and, as such, is extremely vulnerable to continued and accelerated habitat destruction. Alteration of drainage patterns, unrestricted grazing of livestock, or development for residential/recreational or industrial purposes could further threaten the species if proper planning is not implemented.

B. Overutilization for commercial, recreational, scientific, or educational purposes

Sarracenia rubra ssp. *jonesii*, because of its rarity, is not currently a significant component of the commercial trade in native plants; however, pitcher plants in general are very attractive to the horticultural trade, and many species have been collected for sale and export for well over a century (Harper 1918). According to landowners and others (Craig Moretz, North Carolina State University, personal communication, 1987), collectors have removed plants as well as the entire seed crop from some populations in recent years, in spite of State legislation which makes this practice illegal. Publicity could generate an increased demand, which could

easily result in complete extirpation of some of the tiny remaining populations.

C. Disease or predation

Not applicable to this species at this time.

D. The inadequacy of existing regulatory mechanisms

Sarracenia rubra ssp. *jonesii* is afforded legal protection in North Carolina by North Carolina General Statutes, § 106–202.12 to 106–202.19 (Cum. Supp. 1985), which provides for protection from intrastate trade (without a permit), for monitoring and management of State-listed species, and prohibits taking of plants without written permission of landowners. *Sarracenia rubra* ssp. *jonesii* is listed in North Carolina as endangered-special concern—a category which allows for controlled sale of propagated plants. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat such as disruption of drainage patterns and water tables or conversion to agriculture or development. The species is recognized in South Carolina as endangered and of national concern by the South Carolina Advisory Committee on Rare, Threatened, and Endangered Plants in South Carolina; however, this State offers no statutory protection. Section 404 of the Federal Water Pollution Control Act could provide some protection for the habitat of *Sarracenia rubra* ssp. *jonesii*, particularly since the Corps has stated their intent to assert regulatory jurisdiction over sites occupied by the species (see "Summary of Comments and Recommendations" section); however, these sites will not be protected from habitat disturbance which does not involve the placement of fill on the site. The Endangered Species Act would provide additional protection and encouragement of active management where necessary for *Sarracenia rubra* ssp. *jonesii*.

E. Other natural or manmade factors affecting its continued existence

As mentioned in the "Background" section of this proposed rule, many of the remaining populations are small in numbers of individual stems and in terms of area covered by the plants. This, in addition to the rhizomatous nature of the species, indicates that little genetic variability exists in this species, making it more important to maintain as much habitat and as many of the remaining populations as possible. In some cases shrubs and trees threaten to invade this species' habitat, which could result in the elimination of *Sarracenia rubra* ssp. *jonesii* by shading and desiccation. Since this type of succession is a relatively slow process, it is not considered an immediate threat to survival of the species at most sites. However, research and proper management planning for *Sarracenia rubra* ssp. *jonesii* is needed to address this aspect of the species' biology.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Sarracenia rubra* ssp. *jonesii* as endangered. With more than 60 percent of the species' populations having already been eliminated, and only 10 remaining in existence, it definitely warrants protection under the Act. Endangered status seems appropriate because of the imminent serious threats facing most populations. As stated by Folkerts (1977), "More than any other member of the genus, its future seems bleak and it needs immediate attention." Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Sarracenia rubra* ssp. *jonesii* at this time. With its history of illegal collection and the ongoing horticultural trade in pitcher plants, any increased publicity or provision of specific location information associated with critical habitat designation could result in increases of collecting pressures on the species. Many of the remaining populations, being extremely small, could be extirpated as a result. None of the remaining populations occur on lands under Federal jurisdiction; therefore, the Act's prohibition against removal and reduction to possession of endangered plants from such lands would not apply, and these populations would be completely vulnerable to collectors. Even without plant collection, increased visits to population locations stimulated by critical habitat designation could adversely affect the species through trampling of the plants and their sensitive habitat. The State agencies and private landowners involved in managing the habitat of this species have been informed of the plant's locations and of the importance of protection. Protection of the species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for *Sarracenia rubra* ssp. *jonesii* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities that could impact *Sarracenia rubra* ssp. *jonesii* in the future include, but are not limited to, the following: road construction, permits for mineral exploration, permits for placing fill in wetlands, and any other activities that do not include planning for this species' continue existence. The Service will work with the involved agencies to secure protection and proper management of *Sarracenia rubra* ssp. *jonesii* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would

apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that some trade permits will be sought and issued, since this species is, to some extent, already a part of the commercial trade. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Washington, D.C. 20038–7329 (202/343–4955).

On June 6, 1981, *Sarracenia rubra* sp. *jonesii* was included (as *S. jonesii*) in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The effect of this listing is that both export and import permits are required before international shipment may occur. Such shipment is strictly regulated by CITES member nations to prevent it from being detrimental to the survival of the species and cannot be allowed if it is for primarily commercial purposes. If plants are certified as artificially propagated, however, international shipment requires only export documents under CITES, and commercial shipments may be allowed.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Ms. Nora Murdock, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 672–0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Sarraceniaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
SARRACENIACEAE—Pitcher plant family:						
*	*	*	*	*	*	
Sarracenia rubra ssp. Jonesii (= *Sarracenia jonesii*).	Mountain sweet pitcher plant	U.S.A. (NC, SC)	E	339	NA	NA
*	*	*	*	*	*	

Dated: September 22, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-22401 Filed 9-29-88; 8:45 am]

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federal register

Friday
September 30, 1988

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 405, 412, 413, and 489
Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1989 Rates; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 412, 413, and 489

[BERC-465-FC]

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1989 Rates

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

ACTION: Final rule with comment period.

SUMMARY: We are revising the Medicare inpatient hospital prospective payment system to implement necessary changes arising from legislation and our continuing experience with the system. In addition, in the addendum to this rule, we describe changes in the methods, amounts, and factors necessary to determine prospective payment rates for Medicare inpatient hospital services. In general, these changes are applicable to discharges occurring on or after October 1, 1988. We also set forth rate-of-increase limits for hospitals and hospital units excluded from the prospective payment system.

DATES:

Effective Date: This final rule is effective on October 1, 1988. We refer the reader to section VII.A. of this preamble for a discussion of specific provisions that apply to specific periods.

Comment Date: The Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) made certain changes concerning hospitals located in certain rural counties adjacent to urban areas, and concerning adjusting the rates, weights, and outlier thresholds applicable to prospective payment hospitals and target amounts applicable to hospitals and units excluded from the prospective payment system to take into account payment reductions due to the expansion of inpatient hospital benefits. Comments about these changes, which are located at sections V.C.2. and V.M. of the preamble, § 412.63(b), and § 413.40(i), will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on November 29, 1988.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-465-FC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC,

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-465-FC. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

For Individual Copies of This Final Rule, Contact: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

The charge for individual copies is $1.50 for each issue or for each group of pages as actually bound, payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT:

Thomas Hoyer—Physician Attestation, (301) 966-4607.

Gwen Shipe—DRG Classification Changes, Ed Rees—Rate-of-Increase Limits, Lana Price—All Other Issues, (301) 966-4529.

SUPPLEMENTARY INFORMATION:

I. Background

A. Summary

Under section 1886(d) of the Social Security Act (the Act), a system for payment of inpatient hospital services under Medicare Part A (Hospital Insurance) based on prospectively-set rates was established effective with hospital cost reporting periods beginning on or after October 1, 1983. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). The regulations governing the inpatient hospital prospective payment system are located in 42 CFR Part 412.

Sections 1886(d)(1) (A), (C), and (D) of the Act provide for the implementation of the prospective payment system over a four-year transition period. During the transition period, payment to hospitals was based on a combination of the Federal prospective payment rates and hospital-specific rates, the proportions of which changed with the hospital's cost reporting period. In addition, during that period, the Federal rate was a combination of regional and national rates, the proportions of which changed with the Federal fiscal year.

On September 1, 1987, we published a final rule to update the prospective payment rates for Federal fiscal year (FY) 1988. On September 29, 1987, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Pub. L. 100-119) was enacted. Section 107(a)(1) of Pub. L. 100-119 made several changes to payment for inpatient hospital services under the prospective payment system in FY 1988. We published a notice on October 23, 1987 (52 FR 39647) to announce those changes. In general, the prospective payment rates effective in FY 1987 and the prospective payment transition period were extended for the first 51 days of FY 1988 or for the first 51 days of a hospital's cost reporting period beginning in FY 1988, as appropriate.

B. Summary of April 5, 1988 Notice

On December 22, 1987, the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203) was enacted. Portions of sections 4002, 4005, 4008, and 4009 of Pub. L. 100-203 affected FY 1988 payments to prospective payment hospitals and hospitals excluded from the prospective payment system. On April 5, 1988, we published a notice with comment period (53 FR 11134) to describe these statutory changes as follows:

- For discharges in FY 1988 occurring on or after April 1, 1988, the applicable percentage increase used to update the standardized amounts for prospective payment system hospitals is—
  - —3.0 percent for hospitals located in rural areas;
  - —1.5 percent for hospitals located in large urban areas; and
  - —1.0 percent for hospitals located in other urban areas.
- A "large urban area" is defined as an urban area that the Secretary determines has a population of more than 1,000,000 based on the most recent available population data published by the Bureau of the Census. In addition, any New England County Metropolitan Area (NECMA) with a population of more than 970,000 is a large urban area.
- For discharges occurring in a fiscal year beginning on or after October 1, 1987, the Secretary computes average standardized amounts separately for hospitals located in rural, large urban, and other urban areas, respectively. For FY 1988 discharges occurring on or after April 1, 1988, the average standardized amounts for large urban and other urban areas are computed by applying the applicable update factor to the urban average standardized amount that was

in effect for the 51-day period beginning October 1, 1987.

• For discharges occurring on or after April 1, 1988 and before October 1, 1990, "regional floors" for the standardized amounts are established. The regional floor for a region is the greater of the national average standardized amount or the sum of 85 percent of the national average standardized amount and 15 percent of the average standardized amount for the region.

• Hospitals and hospital units excluded from the prospective payment system receive a 2.7 percent increase for cost reporting periods beginning in FY 1988, excluding the first 51 days of these cost reporting periods for which the increase is zero percent.

• For cost reporting periods beginning on or after October 1, 1987, a sole community hospital's hospital-specific portion is increased by zero percent for the first 51 days of the cost reporting period, 2.7 percent for the next 132 days, and for the remainder of the cost reporting period by the same percentage increase as is used in updating the applicable Federal rate (that is, 3.0 percent for hospitals located in rural areas, 1.5 percent for hospitals located in large urban areas, and 1.0 percent for hospitals located in other urban areas).

• Effective with discharges on or after April 1, 1988, rural hospitals may qualify as rural referral centers if they have 275 or more beds.

• For discharges occurring on or after April 1, 1988 and before October 1, 1989 that are classified in DRGs relating to burn cases, the marginal cost factor to be used in computing payments for outliers is 90 percent.

The comment period for the April 5, 1988 notice ended on June 6, 1988. We are responding to the comments received on that notice as a part of this final rule, as discussed below in section I.D. of this preamble.

C. Summary of the Provisions of the May 27, 1988 Proposed Rule

On May 27, 1988, we published a proposed rule in the **Federal Register** (53 FR 19498) (and a correction notice on July 21, 1988 (53 FR 27535)) to further amend the prospective payment system as follows:

• We proposed to adjust the DRG classifications and weighting factors for FY 1989 as required by section 1886(d)(4)(C) of the Act.

• We proposed to update the wage index by basing it entirely on 1984 wage data. In addition, to reflect the provisions of sections 4004(b) and 4005(a) of Pub. L. 100–203, we proposed certain adjustments to the wage data.

• We discussed several current provisions of the regulations in 42 CFR Parts 412 and 413 and set forth certain proposed changes concerning—
—Physician attestation;
—Updating the prospective payment rates and rate-of-increase limits;
—Changes in geographic classifications;
—Creation of a regional floor for standardized amounts;
—Payment for outlier cases;
—Payments to sole community hospitals;
—Referral center criteria;
—Payment for disproportionate share hospitals;
—Classification of capital-related costs and direct medical education costs;
—Elimination of interim payments for the indirect costs of medical education;
—Payment for the indirect costs of medical education; and
—Ceiling on the rate of hospital cost increases.

• In the addendum to this proposed rule, we set forth proposed changes to the methods, amounts, and factors for determining the FY 1989 prospective payment rates. We also proposed new target rate percentages for determining the rate-of-increase limits for FY 1989 for hospitals and hospital units excluded from the prospective payment system.

In addition, the proposed rule discussed in detail the April 1, 1988 recommendations made by the Prospective Payment Assessment Commission (ProPAC). ProPAC is directed by section 1886(d)(4)(D) of the Act to make recommendations to the Secretary with respect to adjustments to the DRG classifications and weighting factors and to report to Congress with respect to its evaluation of any adjustments made by the Secretary.

ProPAC is also directed, by the provisions of sections 1886 (e)(2) and (e)(3) of the Act, to make recommendations to the Secretary on the appropriate percentage change factor to be used in updating the average standardized amounts beginning with FY 1986 and thereafter. We printed ProPAC's report, which includes its recommendations, as Appendix C to the proposed rule (53 FR 19630).

D. Number and Types of Public Comments

Five letters containing comments on the April 5, 1988 notice were received timely. Two hundred and fourteen letters containing comments on the May 27, 1988 proposed regulations were received timely.

The contents of the April 5, 1988 notice, the May 27, 1988 proposed rule, the public comments received concerning both documents, and our responses to the comments are discussed throughout this document in the appropriate sections. In addition, on March 22, 1988, we published a proposed rule entitled Miscellaneous Changes Affecting Payment for Inpatient Hospital Services (53 FR 9337). The contents of that proposal are discussed in section II of this preamble, below, along with the public comments received concerning that proposal and our responses.

In addition, we note that in this document we are not responding to comments that raised issues not specific to the proposals we made. These issues include the general prospective payment methodology (which is, for the most part, set by law) and provisions addressed in previous prospective payment notices, such as the basis for revising the DRGs for treatment of alcohol and drug hospitals and units.

There are six general comments that we are responding to here rather than in the more issue-specific areas below.

Comment: Some commenters expressed concern that data used to establish new DRGs, to modify surgical hierarchies, and to develop a new wage index were not provided to the public.

Response: In order to be as fully responsive as possible, we described in detail in the May 27, 1988 proposed rule (53 FR 19526) the process we had implemented under which commenters could gain access to raw data on an expedited basis. Unfortunately, due to a typographical error, the reader was referred to section IV.B., instead of section VI.B., which contained the information about access to data.

In addition to making raw data available and furnishing sufficient detail in the proposed rule to permit interested parties to replicate analysis, other data are made available upon request but on the whole, we received relatively few requests for these data. We did receive a few requests for clarification of the DRG classification changes. Most of these requests were made by firms programming their own Grouper software. The limited interest in additional detail on DRG changes has convinced us that a narrative summary of the analysis and findings, such as that furnished in the proposed rule, is sufficient for the vast majority of our readers. Those who wish more detail should contact us directly, as provided for in section VI.B. of the preamble of the proposed rule.

As to the surgical hierarchy changes, the methodology we use was described in the proposed rule at 53 FR 19502, the

DRG weighting factors were provided in Table 5, and the frequency of cases in each DRG (necessary for analyzing appropriate placement of DRG pairs) were provided in Table 7b. We believe it to be totally unnecessary to publish each of the mathematical calculations used to arrive at our proposed hierarchy changes. Should an interested party fail to understand what we did or perform similar analysis but arrive at different conclusions, the contact person or persons whose telephone numbers are published at the beginning of each proposed rule are available to respond to inquiries.

Comment: One commenter indicated that data used in publishing the May 27, 1988 proposed rule was not readily available.

Response: To accommodate organizations and individuals who wished to obtain the data used in the proposed rule, we published an extensive list of files, tapes and data available upon request. We also indicated that interested parties could contact specific individuals to request these data, or other data that were not specifically mentioned. (See 53 FR 19526–19527.) During the comment period, all requests for data were given priority status and expedited immediately. It was not necessary for interested parties to make their requests under the Freedom of Information Act provisions. To further accommodate these requests, we also indicated that the data could be examined at HCFA's central office in Baltimore, Maryland. We intend to continue this practice of expediting availability of data in future proposed rules.

Comment: One commenter argued that the discharge-weighted national average standardized amount applicable to prospective payment hospitals in Puerto Rico and the Puerto Rico standardized amounts should reflect a lower labor-related portion than is used for the national and regional standardized amounts applicable to all other hospitals. The commenter argues that hospitals in Puerto Rico pay lower wages and face higher costs for nonlabor inputs than do hospitals outside Puerto Rico. In support of his position, the commenter submitted the results of a survey of hospital costs in Puerto Rico in 1986. Since the wage index is quite low in Puerto Rico, it is to the advantage of hospitals there to have a lower labor-related portion, since this would result in a smaller amount being adjusted (multiplied) by a wage index value lower than 1.0. At the same time, the nonlabor-related portion of the standardized amount, which is not adjusted by the low wage index, would be correspondingly higher.

Response: The determination of the labor-related portion of the standardized amounts is based on the relative importance weights of labor-related and nonlabor-related items and services that comprise the hospital market basket, as rebased in 1982 based on data from the American Hospital Association (AHA) panel survey. Accordingly, we computed the labor related portion of hospital costs based solely on Puerto Rico hospitals represented in the AHA database. These data reveal a difference of fewer than three percentage points in the labor related share of Puerto Rico hospitals compared to the national labor-related share used to compute the prospective payment rates of all hospitals. This difference is much smaller than that claimed by the commenter based on the survey performed. We believe such differences may be attributable to the different time periods used (1982 for the hospital market basket versus 1986 for the Puerto Rico survey), as well as to the hospitals represented in the survey compared to those represented in the AHA database.

Moreover, as the commenter's own study indicates, "Total payments to Puerto Rican hospitals would not be greatly affected by a change in the Puerto Rican regional amounts alone. However, since 25 percent of the payment amount * * * is based upon a national average amount, a change in the methods used to calculate the national standardized amounts for Puerto Rico could result in a change in payments. Increases or decreases in total payments to Puerto Rican hospitals are a result only of the influence of the national portion on the Puerto Rican hospital payment."

The national portion of the rate paid to hospitals in Puerto Rico, as specified in section 1886(d)(9)(A)(ii) of the Act, is: "25 percent of the discharge-weighted average of—(I) the national adjusted DRG prospective payment rate (determined under paragraph (3)(D)) for hospitals located in a large urban area, and (II) such rate for hospitals located in other urban areas, and (III) such rate for hospitals located in a rural area." As the amounts determined under section 1886(d)(3)(D) of the Act are identical to the rates published in Table 1a and used as the basis for the Puerto Rico national standardized amounts published in Table 1c of the Addendum to this final rule. We note that there is no provision for computing the national rates one way for purposes of paying virtually all prospective payment hospitals and another way for purposes of establishing the weighted average of which the Puerto Rico national rate is comprised.

Finally, the use of a different labor-related portion for purposes of establishing the rates for hospitals in Puerto Rico raises a number of issues regarding the appropriateness of making corresponding changes elsewhere in the payment system. For example, if in a particular fiscal year, the price proxies for the labor-related component of the market basket were projected to rise more rapidly than those for nonlabor-related components, then the forecasted market basket increase would be overstated for hospitals in Puerto Rico because their rates were based on a lower labor-related share. For all of the above reasons, we have not accepted this comment, but we will further investigate the issue, and we encourage the commenter to provide us with any additional information that is available.

Comment: We received two comments opposing all changes to the prospective payment system that allow special treatment for certain areas of the country such as the regional floor provision, and the provision to allow hospitals in certain rural counties to be paid as if located in an urban county, and the establishment of higher payment rates for large urban areas.

Response: We do not generally support changes to the prospective payment system that are designed to benefit certain groups of hospitals unless there is significant evidence that these changes are warranted. However, we are required by law to implement the regional floor, the payment of the urban rates to hospitals located in certain rural counties, and the large urban provisions established under sections 1886 (d)(1)(A)(iii), (d)(8), and (d)(3)(ii) of the Act, respectively, as enacted by sections 4002(d), 4005(a), and 4002(c)(1) of Pub. L. 100–203, respectively.

Comment: An association representing nonproprietary hospitals stated that anecdotal evidence confirms that average length of stay data continue to be misused. For example, patients are erroneously advised that they must be discharged upon reaching the mean length of stay because Medicare does not pay for their care beyond this point. The commenter urged that we reevaluate the usefulness of publishing the arithmetic and geometric mean length of stay information for each DRG.

Response: It is necessary to publish the geometric mean lengths of stay in the table of DRG relative weights (Table 5 of the addendum to this final rule) since they are needed in order to compute the per diem payment rate for

transfer cases. In addition, geometric mean lengths of stay are used in the computation of day outlier thresholds. In the proposed rule, we also published the arithmetic mean lengths of stay to assist the reader in understanding the difference between the geometric and arithmetic mean lengths of stay. This difference was explained in detail in the September 3, 1985 final rule at 50 FR 35710.

The arithmetic mean lengths of stay also appear in Tables 7a and 7b of the addendum to this final rule; these tables contain information on the distribution of Medicare lengths of stay by DRG. Therefore, we have deleted the arithmetic mean length-of-stay figures from the table of DRG relative weights (Table 5).

Tables 7a and 7b display the lengths of stay by DRG for cases at the 10th, 25th, 50th, 75th, and 90th percentiles of the distribution of all cases within that DRG. Table 7a shows the distribution of cases classified in accordance with the current DRG definitions while table 7b shows the distribution of cases regrouped in accordance with the DRG classifications that will be in effect for FY 1989. Both tables are based on the MEDPAR file of FY 1987 Medicare discharges from hospitals subject to the prospective payment system received in HCFA central office through June 1988.

We reiterate that the length of stay figures published in the aforementioned tables are illustrative only and reflect historical lengths of stay for Medicare beneficiaries classified within each DRG. They represent neither treatment norms nor limitations on Medicare coverage or benefits. In addition, they do not represent expectations regarding future lengths of stay. In short, the lengths of stay are published for information purposes only and, except for the use of the geometric mean length of stay in calculating day outlier and transfer payments, have no bearing whatsoever on Medicare payment for inpatient hospital services.

In addition, as provided for under section 1866(a)(1)(M) of the Act as added by section 9305(b) of Pub. L. 99-509, upon hospital admission, all Medicare beneficiaries are given a written "Message from Medicare" that explains their rights as Medicare patients. This information includes the statement in bold type that "Your discharge date must be determined solely by your medical needs, not by 'DRGs' or Medicare payments." This message stresses the importance of making all decisions about the patient's need for continued care based on the patients health condition according to both the patient and physician. Information concerning hospitals that discharge patients prematurely should be reported to HCFA or the Department's Office of the Inspector General.

Comment: One commenter, representing hospitals with high Medicare utilization, requested that the Secretary provide a special adjustment for hospitals that have a disproportionately large percentage of Medicare patients. As support for this position, the commenter quotes section 1886(d)(5)(C) of the Act which, in part, provides that "The Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs * * * of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under Part A of this title."

Response: We believe that the special adjustment called for by the commenter is not called for by current law. Specifically, section 9105(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) added section 1886(d)(5)(F) to the Act which established an adjustment, effective May 1, 1986, for hospitals that serve a disproportionate share of Medicaid patients or patients who are entitled to both Medicare Part A and Supplemental Security Income (SSI). Congress simultaneously enacted a conforming amendment in section 9105(c) of Pub. L. 99-272 striking that part of section 1886(d)(5)(C) of the Act that referred to possible exceptions or adjustments for hospitals with high Medicare utilization. It appears that Congress intended the disproportionate share provision enacted by section 9105(a) of Pub. L. 99-272 to substitute for the discretionary authority of the Secretary previously contained in section 1886(d)(5)(C) of the Act regarding adjustments for hospitals with disproportionately high Medicare utilization.

HCFA's research has consistently failed to identify a positive relationship between Medicare utilization and adjusted Medicare inpatient operating costs per case. Such a relationship needs to be established before the type of adjustment sought by the commenter could be entertained. Therefore, we encourage the commenter to research this issue further and present detailed findings on the relationship between Medicare utilization and inpatient operating cost per case.

E. New Legislation

After publication of the May 27, 1988 proposed rule, on July 1, 1988, the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) was enacted. Section 411(b) of Pub. L. 100-360 made several technical corrections to the amendments to Title XVIII of the Act that were enacted by sections 4002 through 4009 of Pub. L. 100-203, some of which affect the provisions we are implementing through this final rule. Any technical changes relevant to the provisions we are implementing are discussed in the appropriate sections of this document.

In addition to the technical corrections, section 104(c)(1) of Pub. L. 100-360 directs the Secretary in adjusting the prospective payment rates, outlier thresholds, and DRG weighting factors for discharges occurring on or after October 1, 1988, to take into consideration, to the extent appropriate, the reductions in payments to hospitals by Medicare beneficiaries resulting from the elimination of a day limitation on Medicare inpatient hospital services (section 101 of Pub. L. 100-360). Section 104(c)(2) of Pub. L. 100-360 directs the Secretary to take the same reductions in payments into account, on a hospital-specific basis, in adjusting the target amounts for cost reporting periods beginning on or after October 1, 1988 for hospitals excluded from the prospective payment system.

The adjustments we are making for prospective payment hospitals and hospitals excluded from the prospective payment system are discussed in detail in section V.M. of this preamble.

II. Comments and Responses to the March 22, 1988 Proposed Rule

A. Summary of Proposed Rule

On March 22, 1988, we published a proposed rule in the **Federal Register** (53 FR 9337) to make several revisions to the regulations governing payments for inpatient hospital services. The provisions of that proposed rule, which, in general, are necessary to conform the regulations to current policy, are as follows:

- For purposes of paying hospitals under the prospective payment system, we proposed that changes in Metropolitan Statistical Area (MSA) and New England County Metropolitan Area (NECMA) designations would be recognized only at the beginning of a Federal fiscal year under §§ 412.63(b) and 412.210(b). Depending on the changes, a county may be reclassified as urban and thus hospitals located in the county would receive a higher urban

rate, or a county may lose its urban area status, and thus hospitals located in the county would receive the lower, rural payment rate.

• Under § 412.92(b), we proposed that a hospital classified as a sole community hospital (SCH) would receive a revised payment rate effective with discharges occurring on or after 30 days after the date of HCFA approval of the classification.

• For purposes of determining a hospital's qualification for payment as a disproportionate share hospital under § 412.106(a)(1), we proposed that the Supplemental Security Income (SSI)/Medicare percentage would be based on Medicare patient days associated with discharges occurring during the Federal fiscal year. In addition, we proposed to add to the regulations a definition of patient days.

• We proposed to revise §§ 413.30(c) and 413.40(e), which govern hospital requests regarding applicability of the rate-of-increase ceiling, to make it clear that they apply to a hospital's request for an adjustment to the rate-of-increase ceiling as well as to the currently included requests for an exemption or exception. We also proposed to revise § 413.40 (g) and (h) to clarify that a request for an exception or adjustment is granted only in those cases in which the hospital's costs exceed its rate of increase ceiling.

• We proposed to make two technical, conforming changes to the regulations as follows:

—We would add payment adjustments for hospitals that serve a disproportionate share of low-income patients to the list of additional payments to hospitals set forth at § 412.2(e).

—We would delete § 489.23, the special provision for hospitals that provides for waiver of requirements concerning Part A billing, and cross-references to that deleted section, since the authority to provide such waivers expired with cost reporting periods beginning on or after October 1, 1986.

We received six items of correspondence concerning the provisions of the March 22, 1988 proposed rule. The comments and our responses are discussed below.

B. Comments and Responses

1. Recognition of Changes in Urban/Rural Designations

Comment: One commenter suggested that we should provide that hospitals affected by modifications to the MSA designations be given at least 30 days notice before modifications are recognized for Medicare purposes. This would ensure that hospitals would have adequate notification if any changes were announced fewer than 30 days prior to the beginning of the Federal fiscal year.

Response: Given the fact that changes to the MSA designations are generally announced by EOMB in June of each year, we do not anticipate that an additional notice period would be necessary. The only situation in which EOMB might announce MSA changes at other times during the year is for changes that were Congressionally mandated. In the event that such a change is announced after our final prospective payment notice has gone to the printer and before October 1, the change would be effective with discharges occurring on or after October 1 and affected hospitals would be notified by the HCFA regional office or their own fiscal intermediary.

2. Hospitals that Serve a Disproportionate Share of Low-Income Patients

Comment: One commenter stated that since the regulations did not previously define inpatient days to be used in the disproportionate patient percentage calculation, the proposed definition of inpatient days in § 412.106(a)(5) should be applied prospectively only. Specifically, the commenter stated that patient days in excluded units should also be counted in the formula in section 1886(d)(5)(F)(vi) of the Act, not just patient days subject to the prospective payment system. The commenter stated that retroactive application of the definition is not appropriate since Congress did not specify in the law that patient days in excluded units of the hospital should not be counted.

Response: The definition of inpatient days we are adding to § 412.106(a) does not represent new policy but is the same definition that we have used to calculate the disproportionate patient percentage since the adjustment was implemented on May 1, 1986. Therefore, this does not represent retroactive application of a new policy but is a restatement of an existing policy.

Although previously the Medicare regulations did not specifically define the inpatient days for use in the computation of a hospital's disproportionate share patient percentage, we believe that, based on a reading of the language in section 1886(d)(5)(F) of the Act, which implements the disproportionate share provision, we are in fact required to consider only those inpatient days to which the prospective payment system applies in determining a prospective payment hospital's eligibility for a disproportionate share adjustment. Congress clearly intended that a disproportionate share hospital be defined in terms of a subsection (d) hospital, which is the only type of hospital subject to the prospective payment system.

Section 1886(d)(1)(B) of the Act defines a subsection (d) hospital as "a hospital located in one of the fifty States or the District of Columbia * * * and does not include a psychiatric or rehabilitation unit of a hospital which is a distinct part of the hospital." In providing for the disproportionate share adjustment, section 1886(d)(5)(F) of the Act specifically refers to a subsection (d) hospital. Thus, section 1886(d)(5)(F)(i) of the Act refers only to "an additional payment amount for each subsection (d) hospital * * *." Other references in section 1886(d)(5)(F) of the Act are to "hospital" and "such hospital." However, since 1886(d)(5)(F) of the Act incorporates the definition of "hospital" by reference to "subsection (d)", all further references in that subparagraph, unless stated otherwise, are taken to mean a subsection (d) hospital. As such, the fact that the prior proposed and final rules that implement the disproportionate share adjustment did not specifically distinguish between prospective payment hospitals and units excluded from the prospective payment system for the purpose of counting inpatient days does not support the conclusion that we must count inpatient days in hospital units that are excluded from the prospective payment system for the periods prior to this change in the regulations.

Moreover, this reading of section 1886(d)(5)(F) of the Act produces the most consistent application of the disproportionate share adjustment, since only data from prospective payment hospitals or from hospital units subject to the prospective payment system are used in determining both the qualification for and the amount of additional payments to hospitals that are eligible for a disproportionate share adjustment.

Comment: One commenter recommended that we clarify the regulation change that specifies that, in computing a hospital's SSI/Medicare percentage, the total number of patient days associated with a particular hospital stay is counted in the Federal fiscal year in which the patient is discharged. This proposed change does not address how patient days are counted for a hospital that chooses to use its own cost reporting period to compute the SSI/Medicare percentage, as permitted for under § 412.106(a)(2).

Therefore, the commenter suggests that we also revise this section to specify how patient days would be counted in this situation.

Response: We agree with this comment and are therefore revising § 412.106(a)(2) to be consistent with § 412.106(a)(1). That is, in computing a hospital's SSI/Medicare percentage, the total number of patient days associated with a particular hospital stay is counted in the hospital's cost reporting period in which the patient is discharged.

3. Adjustments to the Rate-of-Increase Ceiling and Hospital Cost Limits

Comment: One comment was received from a law firm protesting the clarification that a hospital cannot receive an adjustment to its rate-of-increase ceiling if the hospital's costs do not exceed its target amount. The commenter asserted that the effect of the proposed rule would be to directly contravene Congressional intent that hospitals receiving incentive payments be permitted to receive exceptions or adjustments solely for the purpose of increasing these incentive payments rather than to recover cost disallowances.

Response: We disagree with the assertion that there was any Congressional intent to award hospitals additional incentive payments under the exemption, exception, or adjustment authority in section 1886(b)(4) of the Act. The rate-of-increase provisions are an extension of the cost containment provisions in section 1886(a)(1)(A)(i) of the Act (limits on inpatient operating costs). The relationship between the two separate cost containment measures can be seen in the parallel language used under both provisions with respect to providing an exemption from, or an exception and adjustment to, the methods of payment. Also, in addressing the incentive payment and excess cost disallowance, section 1886(b)(1) of the Act states "* * * except that in no case may the amount payable under this title * * * with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a)." The interrelationship of the two limitation methodologies enforces the intent of the Act to promote cost containment.

As stated in the proposed rule, the Senate provision regarding the adjustment process was adopted by the Conference Committee (H.R. Rep. No. 760, 97th Cong., 2nd Sess. 419–421 (1982). Since the Senate amendments did not contain an incentive payment provision, it could not be construed that the exemption, exception, and adjustment process was contemplated without the knowledge or consideration of an incentive program. Also, it seems that the Senate was concerned about hospitals reducing costs through elimination of patient services. This concern can be seen in the discretionary authority given to the Secretary for providing other exemptions from, and exceptions and adjustments to, the limit methodology. Section 1886(b)(4) of the Act states "the Secretary may provide for such other exemptions from, and exceptions and adjustments to, such method as the Secretary deems appropriate, including those which he deems necessary to take into account a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which result in a significant distortion in the operating costs of inpatient hospital services."

It was recognized that hospitals, through this cost containment effort, would have to cut costs but not to the detriment of services being furnished to beneficiaries. The area of patient care was the only area of reductions to be evaluated under these provisions. Therefore, since the reductions employed by a hospital to create incentive payments, other than those decreasing inpatient services, are not adjusted upward in determining an incentive payment, the increases should not be adjusted downward to provide for additional incentive payments. We still believe that the main concern in the exemption, exception, and adjustment provisions was to protect hospitals from being harmed by the rate-of-increase provisions for reasons outside the control of hospital management.

C. Conclusion

We are revising § 412.106(a)(2) to be consistent with § 412.106(a)(1) to indicate that in computing a hospital's SSI/Medicare percentage, the total number of patient days associated with a particular hospital stay is counted in the hospital's cost reporting period in which the patient is discharged. We are correcting the cross reference to § 413.55(b) in § 412.2 (c)(1) and (c)(3). The correct cross reference is to § 413.53(b) As discussed above, based on our consideration of the comments we received, otherwise we are not making any other changes to the provisions of the proposed rule and are adopting those provisions as final in this document.

However, based on inquiries we have received, we wish to further clarify 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 HCFA's written notification to the SCH. Thus, 30 days after the issuance of HCFA'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, we also wish to clarify 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 HCFA regional office. The change to fully national rates becomes effective no later than 30 days after the hospital submits its request. We believe that "no later than 30 days" policy in the effective date for cancelling SCH status is in keeping with the prospective nature of the prospective payment system. In addition, the 30-day time frame to give up SCH status provides the intermediaries with enough time to alter their automated payment systems prospectively, thus avoiding expensive and time consuming reprocessing of claims. The variable time frame of "no later than 30 days from the date of the hospital's request" also permits the regional office, the 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.

Finally, we wish to clarify the effective date when a court order or a determination by the Provider Reimbursement Review Board (PRRB) reverses HCFA's denial of SCH status to a hospital and there is no further appeal made. In this situation, if the hospital's application was submitted prior to October 1, 1983, its status as an SCH will be effective at the start of the cost reporting period for which it sought exemption from the cost limits. If the hospital's application for SCH status was filed on or after October 1, 1983, the effective date will be 30 days after the date of HCFA's original written notification of denial.

If a hospital is granted retroactive approval of SCH status by a court order or a PRRB decision and it wishes its SCH status terminated prior to the current date (that it wishes to be paid as an SCH for a time-limited period, all of it in the past), it must submit written notice to the regional office within 90 days of the court order or PRRB decision. This written notice must

clearly state that although SCH status was granted retroactively by the court or the PRRB, 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 PRRB 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.

III. Changes to DRG Classifications and Weighting Factors

A. Background

Under the prospective payment system, we pay for inpatient hospital services on the basis of a rate per discharge that varies by the DRG to which a beneficiary's stay is assigned. The formula used to calculate payment for a specific case takes an individual hospital's payment rate per case and multiplies it 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 national average of resources used to treat all Medicare cases. Thus, cases in a DRG with a weight of 2.0 would, on average, require twice as many resources as the average Medicare case.

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 weighting factors annually beginning with discharges occurring in FY 1988. These adjustments are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. The changes to the DRG classification system and the recalibration of the DRG weights for discharges occurring on or after October 1, 1988 are discussed below.

B. Reclassification of DRGs

1. General

Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to four additional diagnoses, and certain procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnoses and procedures are expressed by the hospital using codes from the International Classification of Diseases, Ninth Edition, Clinical Modification (ICD–9–CM). The intermediary enters the information into its claims system and subjects 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 can be accomplished.

After screening through the MCE and any further development of the claims, cases are classified by the Grouper software program into the appropriate DRG. 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 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 list of DRGs is organized into 23 major diagnostic categories (MDCs). Most MDCs are based on a particular organ system of the body (for example, MDC 6, Diseases and Disorders of the Digestive System); however, some MDCs are not constructed on this basis since they involve multiple organ systems (for example, MDC 22, Burns).

Principal diagnosis determines MDC assignment. Within most MDCs, cases are then divided into surgical DRGs (based on a surgical hierarchy that orders individual surgical procedures or groups of surgical procedures by resource intensity) and medical DRGs. Medical DRGs generally are differentiated on the basis of diagnosis only. Some categories of both medical and surgical cases are further disaggregated on the basis of patient age or the presence or absence of complications or comorbidities (hereafter CC) only. Generally, Grouper does not consider nonsurgical procedures or minor surgical procedures that usually do not require an operating room (OR). 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.

In the proposed rule published on May 27, 1988, we proposed to make some changes to the DRG classification system on the basis of problems identified over the past year. These proposed changes and the comments we received concerning them as well as our responses are set forth below. In addition to comments related to each of the specific proposed DRG classification changes, we received some general comments, as follows:

Comment: Several commenters expressed concern that HCFA does not provide details on the analyses that led to proposed DRG changes. In addition, the commenters stated that the criteria we used should be explicit and provide for public review and comment.

Response: Providing a detailed description of the analytic bases for our proposed changes is a reasonable alternative and is consistent with the level of detail most readers desire. For those individuals wishing more information, a contact person's name and telephone number are published in each proposed and final rule or notice.

With regard to the comments recommending that detailed criteria for classification be developed and published for comment, we do not believe such steps are necessary. The DRGs, as originally developed, were intended to represent groups of hospital patients who were clinically similar to one another and were relatively homogeneous with respect to resource use as measured by length of stay. The algorithm used to define the DRGs was designed to establish partitions that would both reduce the variance with respect to length of stay within groups and maximize the differences between groups. It was originally thought that in order to be manageable, the DRGs should number something less than 500.

In our efforts to refine the DRG classifications and respond to changing medical practice, we have attempted to adhere to those principles. Since we have based DRG weighting factors on total charges (standardized to account for variations among hospitals in area wages, teaching intensity, and the proportion of low income patients), we have used standardized charges rather than the length of stay as our primary measure of relative resource use when examining the extent to which a proposed classification change makes the DRGs more or less homogeneous. In addition, with respect to new technologies, we prefer adding cases involving new technologies to an existing DRG, clinical heterogeneity notwithstanding, until there is relatively compelling evidence (based on Medicare patient experience) that a separate DRG would improve both the clinical coherence and the homogeneity with respect to resource use for the new DRG. Moreover, we described the bases on which we proposed DRG classification changes in our proposed rule. In general, the changes we have proposed are ones that either reduced within DRG variance among patients in resource use (as measured by standardized charges); incorporated new ICD–9–CM codes into the DRGs; incorporated new technologies into the

DRGs; or represented housekeeping changes, such as consistency or other logic checks.

Generalizing beyond these goals to overriding criteria could be counterproductive in that the criteria thus adopted may be too narrow to permit adoption of a reasonable DRG classification change or too broad to forestall consideration of reassignment of each and every ICD–9–CM code from the DRG(s) to which it is presently assigned to all other possible DRGs. We believe it is better to continue to evaluate each DRG classification issue independently and that it is sufficient to describe the analytic basis upon which we propose each of the individual DRG classification changes.

We will continue to base our decisions on clinical grounds, comparability of the average charge for one type of case to the mean for the DRG in which it is classified and the DRG to which its movement is proposed, frequency of the procedure or diagnosis at issue, variation in a particular DRG relative to DRGs in general, and other issues pertinent to the type of case being considered for reclassification. We believe such individual consideration is superior to the development of criteria that could potentially prevent movement of cases in instances where reclassification is appropriate.

We recognize the need to make available the data upon which our decisions were reached. Therefore, in the proposed rule, we listed the types of information that could be obtained on an expedited basis (53 FR 19526). If the data that were needed were not listed, any concerned commenter could call for the necessary information. We also provided for inspection of the data onsite at the HCFA central office. We believe that we have demonstrated our commitment to provide the public with the necessary information to submit informed comments.

Comment: A few commenters wrote concerning the classification of thoracoabdominal aortic aneurysm repair (TAAA). In the September 1, 1987 final notice concerning changes to the DRG classification system (52 FR 33148), we indicated that we would continue to review the classification of this repair. The commenters noted that we had not addressed the issue in the May 27, 1988 proposed rule. The commenters suggested that the current classification of TAAA does not recognize the resources involved in this procedure.

Response: We agree with the commenters that we need to continue to review the classification of TAAA as well as other procedures in the analysis of DRGs. Currently, TAAA repairs are classified in DRG 108 (Other Cardiothoracic or Vascular Procedures with Pump) and DRG 109 (Other Cardiothoracic Procedures without Pump). We reviewed the current data available to note the exact number of procedures performed. In FY 1987, there were 1,647 discharges in DRG 108; 69 involved TAAA repairs. Of the 9,386 total discharges in DRG 109, 270 discharges involved TAAA repairs. We are not generally persuaded that such small numbers of cases warrant special treatment in the context of a system built on averages. However, because other problems have been brought to our attention regarding the classification of certain major cardiovascular procedures, we plan to conduct a broader analysis during the coming year to identify potential restructuring of DRGs 108 through 112, which would necessarily involve review of the placement of TAAA repair. Because of the extensiveness of this review, we invite interested parties to submit specific concerns or alternative configurations of these DRGs to us in writing at: HCFA Grouper Changes, P.O. Box 26681, Baltimore, Maryland 21207.

2. MDC 3: Diseases and Disorders of the Ear, Nose and Throat

Based on our analysis of cases brought to our attention and the overall logic of the DRG classification system, we proposed to restructure MDC 3 (Diagnoses of Disorders of the Ear, Nose and Throat) and MDC 6 (Diagnoses and Disorders of the Digestive System) by removing mouth-related diagnoses and procedures from MDC 6 and adding them to MDC 3, to be retitled "Diseases and Disorders of the Ear, Nose, Mouth and Throat." We proposed to move DRGs 168 and 169 (Mouth Procedures)[1] and DRGs 185 and 186 (Dental and Oral Disease Except Extractions and Restorations) and 187 (Dental Extractions and Restorations) from MDC 6 to MDC 3. We proposed to delete the diagnosis and procedure codes in these three DRGs from MDC 6.

Because the mouth malignancy diagnosis codes (140.0–145.9) in DRGs 185, 186, and 187 fit more appropriately with other MDC 3 malignancy codes in DRG 64 (Ear, Nose and Throat Malignancy), we proposed to delete codes 140.0–145.9 from DRGs 185, 186, and 187 and add them to DRG 64, which would be retitled Ear, Nose, Mouth and Throat Malignancy. In addition, we found that several mouth-related diagnosis codes that were in DRGs 73 and 74 (Other Ear, Nose and Throat Diagnoses) would fit more appropriately into DRGs 185, 186, and 187. Therefore, we proposed to delete the diagnosis codes listed below from DRGs 73 and 74 and add them to DRGs 185, 186, and 187.

Diagnosis code	Description
210.1	Benign neoplasm tongue.
744.81–744.84	Other specified anomalies of the face and neck.
749.00–749.04	Cleft palate.
749.10–749.14	Cleft lip.
749.20–749.25	Cleft palate with cleft lip.

We proposed to retitle DRGs 73 and 74 as "Other Ear, Nose, Mouth and Throat Diagnoses" to conform with the rest of the restructured MDC 3.

Finally, we determined that four neoplasm codes included in DRGs 188, 189, and 190 (Other Digestive System Diagnoses) would be better classified in the revised DRGs 185, 186, and 187 in MDC 3. We proposed to delete diagnosis codes 210.0, 210.3, 210.4, and 213.1, benign neoplasms of the lip, mouth floor, mouth, and lower jawbone, respectively, from MDC 6 and add them to DRGs 185, 186, and 187 now in MDC 3.

As noted in the proposed rule (53 FR 19500), all of the procedure codes in the surgical DRGs 168 and 169 were already also assigned to clinically coherent DRGs in MDC 3. Thus, merely moving DRGs 168 and 169 into MDC 3 would produce a situation in which a case involving one of the mouth procedures could be assigned to multiple DRGs or, alternatively, a situation in which DRGs 168 and 169 would be empty. In order to prevent such an outcome, we proposed deleting from DRGs 168 and 169 all procedures except the following, which are very specific to the mouth:

Procedure code	Description
24.2	Gingivoplasty.
24.4	Excision of dental lesion of jaw.
24.5	Alveoloplasty.
25.1	Excision or destruction of lesion or tissue of tongue.
25.59	Other repair and plastic operations on tongue.
25.94	Other glossotomy.
25.99	Other operations on tongue.
27.0	Drainage of face and floor of mouth.
27.1	Incision of palate.
27.21	Biopsy of bony palate.
27.22	Biopsy of uvula and soft palate.
27.31	Local excision or destruction of lesion or tissue of bony palate.
27.42	Wide excision of lesion of lip.
27.43	Other excision of lesion or tissue of lip.

[1] Unless otherwise noted, a single title combined with two DRG numbers is used to signify pairs, the first DRG of which is cases with CC and the second of which is cases without CC. If a third number is included, it represents cases of patients who are age 0–17, and the first two DRGs are limited to patients age greater than 17, with CC and without CC, respectively.

Procedure code	Description
27.49	Other excision of mouth.
27.53	Closure of fistula of mouth.
27.55	Full-thickness skin graft to lip and mouth.
27.56	Other skin graft to lip and mouth.
27.57	Attachment of pedicle or flap graft to lip and mouth.
27.59	Other plastic repair of mouth.
27.61	Suture of laceration of palate.
27.71	Incision of uvula.
27.72	Excision of uvula.
27.73	Repair of uvula.
27.79	Other operations on uvula.
27.92	Incision of mouth, unspecified structure.
27.99	Other operations on oral cavity.

Since these procedures were also assigned to DRG 63 (Other Ear, Nose and Throat Procedures), we proposed to remove them from DRG 63. By removing these procedures from DRG 63 and including them in the restructured DRGs 168 and 169 in MDC 3, we proposed to create a specific DRG pair for mouth-related procedures in MDC 3. We proposed to assign cases involving all other procedures in DRGs 168 and 169 to DRGs 49 through 62. We proposed to add DRGs 168 and 169 to the revised surgical hierarchy for MDC 3 described below in section III.B.4.a. of this preamble. To conform with the restructured MDC, we proposed that DRG 63 be retitled as Other Ear, Nose, Mouth and Throat Procedures and that DRG 55 be retitled as Miscellaneous Ear, Nose, Mouth and Throat Procedures. We received two comments on this proposal, both of which expressed approval and support. Therefore, we are adopting our proposed reconfiguration unchanged.

3. Reclassification of MDC 7

Recently, a problem with the DRG assignment of certain cases involving multiple biliary tract procedures in MDC 7 (Diseases and Disorders of the Hepatobiliary System and Pancreas) was brought to our attention. Based on our review, we proposed that, for operating room procedures done on the biliary tract, procedures first be differentiated on the basis of whether a total cholecystectomy, with or without common bile duct exploration, had been the only procedure performed, or whether some other biliary tract procedure had also been performed. If, in addition to cholecystectomy with or without common bile duct exploration, another biliary tract procedure had been performed, we proposed that the case group to DRG 193 or 194 (Biliary Tract Procedures Except Total Cholecystectomy). If a cholecystectomy and common bile duct exploration had been the only procedures performed, we proposed that the case be assigned to DRG 195 or 196 (Total Cholecystectomy with Common Duct Exploration). Finally, we proposed that DRGs 197 and 198 (Total Cholecystectomy without Common Duct Exploration) be reserved for those cases in which the only biliary tract procedure performed is a cholecystectomy.

In MDC 7, another problem in the surgical hierarchy was found in DRG 191 (Major Pancreas, Liver and Shunt Procedures) and DRG 192 (Minor Pancreas, Liver and Shunt Procedures). The relative weights suggested that DRG 192 was more resource intensive than DRG 191 and, therefore, should be ordered above it in the surgical hierarchy. Logically, however, minor procedures should not be ordered above major procedures. Consequently, this occurrence suggested that something was amiss in our delineation of major and minor procedures. To solve this problem, we proposed to combine all the procedures in DRGs 191 and 192 and group discharges having these procedures based on the presence or absence of a CC and to entitle DRG 191 "Pancreas, Liver and Shunt Procedures with CC," and DRG 192 "Pancreas, Liver and Shunt Procedures without CC."

We indicated that as part of our ongoing review, we would also examine the data to determine if procedures involving the pancreas should be separated from the other procedures in DRGs 191 and 192. Having completed this examination of data, we found little difference in the standardized charges for pancreatic procedures compared to other procedures in these DRGs. However, the minimal difference in the standardized charges does not explain the discrepancy we had originally found when reviewing the weights for the major and minor procedures. Based on our review, we believe differentiation between DRGs 191 and 192 based on the presence or absence of a CC is the most logically coherent approach.

Comment: One commenter wrote concerning the methodology under which discharges currently group to DRGs in MDC 7 when a cholecystectomy is performed. The commenter noted that the presence or absence of a cholecystectomy procedure, regardless of which other biliary tract procedures have been performed, determines which DRG is assigned to the discharge. This happens even when the other procedures are more resource intensive.

Response: This is the type of problem we addressed in the proposed rule at 53 FR 19501. For operating room procedures performed on the biliary tract, the discharge will first be differentiated on the basis of whether a total cholecystectomy with or without common bile duct exploration was the only procedure performed or whether some other biliary tract procedure was also performed. The discharge would be assigned to DRG 193 or 194 if, in addition the cholecystectomy with or without common bile duct exploration, another biliary tract procedure was performed. The discharge will be assigned to DRG 195 or 196 if a cholecystectomy and common bile duct exploration are the only procedures performed. DRG 197 or 198 will be assigned to discharges in which the only biliary tract procedure performed was a cholecystectomy.

Comment: One commenter, in discussing the changes in MDC 7, stated that we did not identify to which DRG a discharge would be assigned when only a biliary tract procedure except total cholecystectomy was performed.

Response: In the proposed rule, we only discussed the changes we were making to correct the problem of DRG assignment of cases involving multiple biliary tract procedures, one of which is a total cholecystectomy. We did not propose to change the methodology under which discharges involving only biliary tract procedures other than total cholecystectomy group. These discharges will continue to group one of DRGs 193 and 194, which we have retitled "Biliary Tract Procedure with CC, Except Only Total Cholecystectomy with or without Common Bile Duct Exploration" and "Biliary Tract Procedure without CC, Except Only Total Cholecystectomy with or without Common Bile Duct Exploration", respectively.

4. Surgical Hierarchies

Because the relative resource intensity of procedure groups 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 procedures coincided with the intensity of resource utilization, as measured by the same billing data used to compute the DRG relative weights.

Based on the preliminary recalibration of the DRGs, we proposed to modify the surgical hierarchy as set forth below. As discussed below in section III.C. of this preamble, the final recalibrated weights are somewhat different from those proposed since they are based on more complete data. Consequently, we have

further revised the hierarchy in this final rule as described below.

We proposed to revise the surgical hierarchy for MDCs 3, 5, 6, and 8 as follows:

a. As discussed above in section III.B.2. of this preamble, we proposed to move all mouth diagnoses and procedures into MDC 3 to create one MDC for the Ear, Nose, Mouth and Throat. Accordingly, DRGs 168 and 169 would move from MDC 6 into MDC 3 and must be placed into the surgical hierarchy for MDC 3. Based on this change and the resulting relative weights, we proposed to reorder the procedure groups in MDC 3 as follows:

Major Head and Neck Procedures (DRG 49)
Tonsillectomy and Adenoidectomy Procedure Except Tonsillectomy and/or Adenoidectomy Only (DRGs 57 and 58)
Mouth Procedures (DRGs 168 and 169)
Cleft Lip and Palate Repair (DRG 52)
Myringotomy with Tube Insertion (DRGs 61 and 62)
Sialoadenectomy (DRG 50)
Sinus and Mastoid (DRGs 53 and 54)
Salivary Gland Except Sialoadenectomy (DRG 51)
Miscellaneous Ear, Nose, Mouth and Throat (DRG 55)
Rhinoplasty (DRG 56)
Tonsillectomy and/or Adenoidectomy Only (DRGs 59 and 60)
Other Ear, Nose, Mouth, and Throat OR Procedures (DRG 63)

b. In MDC 5 (Diseases and Disorders of the Circulatory System), we proposed to reorder Other Cardiothoracic or Vascular Procedures with Pump (DRG 108) above Coronary Bypass (DRGs 106 and 107).

c. In MDC 6, we proposed to remove Mouth Procedures (DRGs 168 and 169) from the hierarchy and place them into MDC 3.

d. In MDC 8 (Disease and Disorders of the Musculoskeletal System and Connective Tissue), we proposed to reorder Soft Tissue (DRGs 226 and 227) above Local Excision and Removal of Internal Fixation Devices of Hip and Femur (DRG 230).

e. We proposed to differentiate the DRG pair for pancreas, liver, and shunt procedures based on the presence or absence of a CC. However, the surgical hierarchy would not change. Pancreas, Liver and Shunt Procedures will continue to precede Biliary Tract Procedures in the hierarchy for MDC 7.

We received three comments concerning the proposed reordering within the surgical hierarchies. The comments were all favorable and supported the proposed changes. We are finalizing these proposed changes except as provided below.

Although moving mouth procedures into MDC 3 is an improvement to the surgical hierarchies, further analysis has indicated an error in the proposed ordering of the surgical hierarchy in MDC 3. When we propose changes to the surgical hierarchy, we are not always able to test the effects of the revisions due to the unavailability of revised Grouper software at the time of publication. Rather, in performing analysis of the surgical hierarchies, we simulate most major classification changes to approximate the placement of cases under the proposed reclassification and then recalibrate the DRG weights. The weighting factor for each procedure group then serves as our best estimate of relative resource use for that procedure group.

Since we published the proposed rule, we have received a revised Grouper program and a more complete 1987 MEDPAR file, and we were able to test the proposed surgical hierarchy changes. Test results indicated that two changes are necessary. First, the weighted average of the relative weights for Mouth Procedures (DRGs 168 and 169) was less than the weight for Cleft Lip and Palate Repair (DRG 52) and also less than the weighted average of relative weights for Myringotomy with Tube Insertion, Age >17 and Age <17, respectively (DRGs 61 and 62), both of which we had proposed to place lower than Mouth Procedures (DRGs 168 and 169). Consequently, we are revising the proposed ordering of the surgical hierarchy in MDC 3 to provide that Mouth Procedures (DRGs 168 and 169) has now been moved to below Myringotomy with Tube Insertion (DRGs 61 and 62). The complete surgical hierarchy for MDC 3 is as follows:

Major Head and Neck Procedures (DRG 49)
Tonsil and Adenoid Procedures Except Tonsillectomy and/or Adenoidectomy Only (DRGs 57 and 58)
Cleft Lip and Palate Repair (DRG 52)
Myringotomy with Tube Insertion (DRGs 61 and 62)
Mouth Procedures (DRGs 168 and 169)
Sialoadenectomy (DRG 50)
Sinus and Mastoid (DRGs 53 and 54)
Salivary Gland Except Sialoadenectomy (DRG 51)
Miscellaneous Ear, Nose, Mouth and Throat (DRG 55)
Rhinoplasty (DRG 56)
Tonsillectomy and/or Adenoidectomy Only (DRGs 59 and 60)
Other Ear, Nose, Mouth and Throat OR Procedures (DRG 63)

In addition, we have found from analysis with the revised Grouper program that reordering of the MDC 6 surgical hierarchy is necessary since Rectal Resection (DRGs 146 and 147) was ordered above Major Small and Large Bowel Procedures (DRGs 148 and 149) but is of a lower-weighted average relative weight. This occurs largely as a result of the reclassification of Hartmann resections, owing to the elimination of procedure code 48.66 and the future use of procedure code 45.75 (Left hemicolectomy) to identify that procedure. Consequently, we are revising the hierarchy in MDC 6 to provide that Major Small and Large Bowel Procedures (DRGs 148 and 149) are ordered above Rectal Resection (DRGs 146 and 147).

5. Refinement of Complications and Comorbidities List

There is a standard list of diagnoses that are considered complications and comorbidities (CCs). This list was developed by physician panels to include those diagnoses that, when present as a secondary condition, would be considered a substantial complication or comorbidity. A substantial CC, in turn, is defined as a condition that, because of its presence with a specific principal diagnosis, would cause an increase of at least one day in length of stay for at least 75 percent of the patients.

We proposed a limited revision of the CC Exclusion Lists, which included corrections of errors in the existing list, addition of a number of excluded CCs, and the deletion of a number of excluded CCs.

Tables 6d and 6e in section IV of the addendum to the proposed rule contained the proposed revisions to the CC Exclusions List that would be effective for discharges occurring on or after October 1, 1988. Although 67 principal diagnoses have both deletions from and additions to the diagnoses that are excluded as CCs, for clarity we showed the additions and deletions to the CC Exclusions List in separate tables. The tables show the principal diagnoses with proposed changes to the excluded CCs. Each of these principal diagnoses was shown with an asterisk and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis. We received no negative comments on these revisions. Therefore, in the final rule, we have updated these tables as proposed except to make conforming changes to reflect the treatment as CCs of certain of the new neonate diagnosis codes that will become effective October 1, 1988.

CCs that are added to the list are in Table 6d—Additions to the CC Exclusions List. (The indented diagnoses were previously recognized by the Grouper as valid CCs for the asterisked principal diagnosis but will be excluded from the CC list for that principal diagnosis and thus ignored by the Grouper beginning with discharges on or after October 1, 1988.)

CCs that are deleted from the list are in Table 6e—Deletions from the CC Exclusions List. (The indented diagnoses were previously excluded and were not recognized by the Grouper as valid CCs for the asterisked principal diagnosis but will be recognized as valid CCs beginning with discharges on or after October 1, 1988.)

Copies of the entire 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 $59.95 and on microfiche for $17.50. 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, Springfield, Virginia 22161, or by calling (703) 487–4650.

Users should be aware of the fact that the revisions in Tables 6d and 6e must be incorporated into the original FY 1988 list purchased from NTIS in order to obtain the CC Exclusions List applicable for discharges occurring on or after October 1, 1988. (We do not currently intend to update the listing available from NTIS to take into account future revisions.)

Alternatively, the complete documentation of the Grouper logic, including the current CC Exclusions List, is available from Health Systems International (HSI). HSI, under contract with HCFA, is responsible for updating and maintaining the Grouper program. The DRG Definitions Manual, Fifth Revision, which is effective for discharges on or after October 1, 1988 will be available soon after October 1, 1988, for $165.00, which includes $15.00 for shipping and handling. The fifth revision of this manual includes the changes in this document. This manual may be obtained by writing HSI at: 100 Broadway, New Haven, Connecticut 06511, or by calling (203) 562–2101.

Please specify the revisions requested.

6. Additional Procedure Code Changes in DRG 468

Each year, we review cases assigned to DRG 468 (Unrelated Operating Room Procedures) in order to determine whether, in conjunction with certain principal diagnoses, there are certain procedures performed that are not currently included in the surgical hierarchy for the MDC in which the diagnosis falls. Since DRG 468 is reserved for those cases in which none of the operating room (OR) procedures shown on the bill is related to the principal diagnosis, it is intended to capture atypical medical cases, that is, those not occurring with sufficient frequency to represent a distinct recognizable clinical group. On the basis of this review, we proposed several DRG classification changes in order to reduce unnecessary assignment of cases to DRG 468.

In MDC 5 (Diseases and Disorders of the Circulatory System), when procedure code 54.93 (Creation of cutaneoperitoneal fistula) is performed with a principal diagnosis such as mechanical complication of other vascular device, implant and graft (diagnosis code 996.1), the discharge is assigned to DRG 468. We proposed to add procedure code 54.93 to the list of operating room procedures in DRG 120 (Other Circulatory System OR Procedures). We also proposed in DRG 120 to include procedure code 54.95 (Incision of peritoneum), which previously, if paired with a principal diagnosis in MDC 5 such as mechanical complication of other vascular device, implant and graft (diagnosis code 996.1), grouped to DRG 468.

In DRGs 170 and 171 (Other Digestive System OR Procedures), we proposed to add procedure code 39.27 (Arteriovenostomy for renal dialysis) as one of the operating room procedures. This would preclude assignment of a discharge to DRG 468 if this procedure is performed with a principal diagnosis such as diagnosis code 567.2 (Other Suppurative peritonitis).

Previously, procedure code 39.25 (Aorta-iliac-femoral bypass), when combined with a diagnosis code such as 707.1 (Ulcer of lower limbs, except decubitus) in MDC 9 (Diseases and Disorders of the Skin, Subcutaneous Tissue and Breast), resulted in assignment to DRG 468 (Unrelated OR Procedures). We proposed to include procedure code 39.25 as an operating room procedure in DRGs 269 and 270 (Other Skin, Subcutaneous Tissue and Breast Procedures). We also proposed to add procedure code 39.29 (Other (peripheral) vascular shunt or bypass) to the operating room procedures included in DRGs 269 and 270.

Previously, procedure code 54.95 (Incision of peritoneum) if performed with a principal diagnosis in MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract) such as 585 (Chronic renal failure) grouped to DRG 468. We proposed to add this procedure code to the list of operating room procedures in DRG 315 (Other Kidney and Urinary Tract OR Procedures).

Diagnosis code 617.5 (Endometriosis of intestine) had been previously classified in MDC 13 (Diseases and disorders of the female reproductive system), while surgical procedures on the intestine had been in MDC 6. Hence, if this condition had been treated surgically, the discharge was assigned to DRG 468. We proposed to remove diagnosis code 617.5 from MDC 13 and place it into MDC 6. We proposed to assign medical cases to DRGs 182, 183, and 184 (Esophagitis, Gastroenteritis and Miscellaneous Digestive Disorders).

Similarly, diagnosis code 617.6 (Endometriosis in scar of skin) had been classified in MDC 13 while the surgical procedures performed for this diagnosis had been in MDC 9 (Diseases and Disorders of the Skin, Subcutaneous Tissue and Breast). We proposed to remove diagnosis code 617.6 from MDC 13 and add it to MDC 9, in DRGs 283 and 284 (Minor Skin Disorders).

In MDC 14 (Pregnancy, Childbirth and Puerperium), we proposed to add three procedure codes to the operating room procedures in DRG 374 (Vaginal Delivery With Sterilization and/or D&C). Previously, these procedures, when combined with a principal diagnosis in MDC 14 such as 665.41 (High vaginal laceration), had grouped to DRG 468. The three procedure codes proposed to be added to DRG 374 are procedure codes 66.4 (Total unilateral salpingectomy), code 66.69 (Other partial salpingectomy), and 66.92 (Unilateral destruction or occlusion of fallopian tube).

Previously, if procedure code 54.93 (Creation of cutaneoperitoneal fistula) had been performed as part of treating a principal diagnosis in MDC 21 (Injury, Poisoning and Toxic Effects of Drugs) such as diagnosis code 996.6 (Infection or inflammation of a device or graft), the discharge grouped to DRG 468. We proposed to add procedure code 54.93 as part of the operating procedures in DRGs 442 and 443 (Other OR Procedures for Injuries). In addition, we also proposed to add procedure code 54.95 (Incision of peritoneum) to the list of the operating room procedures in DRGs 442 and 443.

Patients hospitalized for a long period of time run the risk of developing decubitus ulcers for which wound debridement may be the appropriate treatment. Previously, procedure code 86.22 (Wound debridement) with a

principal diagnosis in MDC 2 (Diseases and Disorders of the Eye), MDC 4 (Diseases and Disorders of the Respiratory System), MDC 7 (Diseases and Disorders of the Hepatobiliary System and Pancreas), MDC 13 (Diseases and Disorders of the Female Reproductive System), and MDC 16 (Diseases and Disorders of the Blood and Blood-Forming Organs and Immunological Disorders) grouped to DRG 468. We proposed to add procedure code 86.22 to the list of operating room procedures in DRGs 40 and 41 (Extraocular Procedures Except Orbit), DRGs 76 and 77 (Other Respiratory System OR Procedures), DRG 201 (Other Hepatobiliary or Pancreas OR Procedures), DRG 365 (Other Female Reproductive System OR Procedures), and DRG 394 (Other OR Procedures of Blood and Blood Forming Organs).

We received no comments on these revisions and are therefore adopting them as proposed.

7. Refinement of DRG 468

ProPAC, as stated in its Recommendation No. 16, believes that refinements to DRG 468 are needed to improve the accuracy of patient classification. ProPAC recommended that all cases currently assigned to DRG 468 should be reassigned to existing surgical DRGs, using secondary, rather than principal, diagnoses. Based on ProPAC's recommendation, cases that could be reassigned to more than one DRG should be assigned to the DRG with the highest relative weight.

DRG 468 is reserved specifically for those cases in which none of the surgical procedures furnished to a patient is related to the patient's principal diagnosis. It was established as a means of identifying those cases that do not readily lend themselves to classifications within groups of clinically similar patients because the cases themselves do not reflect typical treatment patterns. For example, cases in which the patient develops pressing medical-surgical needs related to a secondary diagnosis or complication are assigned to DRG 468.

Adoption of ProPAC's recommendation would result in cases that are currently assigned to DRG 468 being moved to one of the existing surgical DRGs. We believe that this would not produce improved DRG definitions because the net effect of the redistribution of DRG 468 cases would make the current DRGs less homogeneous from both a clinical and statistical perspective.

A second difficulty with the redistribution of DRG 468 cases is the recommendation that the relative weights be used to select the precise DRG to which a case would be reassigned. Across MDCs, the weights of many DRGs are similar. Each year, the recalibration of the relative weights results in minor changes in the individual DRG weights even when there are no clinical logic changes for a particular DRG. Therefore, if the ProPAC recommendation were adopted, over the years, patients with identical clinical characteristics could be assigned to different DRGs solely as a result of small fluctuations in the relative weights.

Further, some Blue Cross plans, Medicaid agencies, and State commissions are using DRGs for payment purposes. In general, these payors use the Medicare DRG definitions with their own relative weights. Thus, if we were to adopt ProPAC's recommendation, a hospital would obtain a different DRG assignment for a patient based on which payor's weights are being used. This would be very confusing to hospitals and would appear illogical to physicians. As a general principal, we believe that DRG assignment should be based exclusively on patient characteristics and not on the attributes of the payment system. The DRG definitions should be based on clinical logic and should remain independent of the logic of the payment system.

However, we agree with ProPAC that there are problems with the current definition of DRG 468. Our original expectation was that the patients assigned to DRG 468 would be those who experienced significant unanticipated complications that were not associated with the patient's principal diagnosis and that necessitated performance of a surgical procedure. We expected that these types of patients would be atypical and would have a high use of hospital resources as evidenced by the high payment weight for DRG 468. However, in examining the discharges in DRG 468 and procedures associated with these discharges, we found that there are two additional distinct types of discharges in DRG 468.

The first distinct type of discharge is that of a male patient admitted for a medical problem who, after treatment for the medical problem, experiences urinary retention. A transurethral prostatectomy is performed and the discharge is then grouped to DRG 468.

The second distinct type of discharge is that of a patient admitted for a medical problem who, after treatment for the medical problem, has an unrelated elective or diagnostic procedure performed, for example, a polypectomy or cataract extraction. The performance of the unrelated procedure results in the discharge being grouped to DRG 468. We believe the high relative weight associated with DRG 468 may provide a financial incentive for hospitals to perform these procedures on patients admitted for unrelated medical reasons.

In order to address these problems in DRG 468, we proposed to add the following two new DRGs to the current list:

- DRG 476—Prostatic OR Procedure Unrelated to Principal Diagnosis. We proposed to assign DRG 476 to those discharges in which one of the following prostatic procedures is performed that is unrelated to the principal diagnosis:

60.2—Transurethral prostatectomy
60.61—Local excision of lesion of prostate
60.69—Other prostatectomy
60.94—Control of postoperative hemorrhage of prostate

- DRG 477—Non-Extensive OR Procedure Unrelated to Principal Diagnosis. We proposed to assign DRG 477 to those discharges in which the only procedure performed is a nonextensive procedure that is unrelated to the principal diagnosis.

Comment: Several commenters expressed support for the refinements that we have made to DRG 468 by adding DRG 476 and DRG 477. While supporting the proposed changes, the commenters also want us to continue looking at ProPAC's proposal to reassign cases in DRG 468 to existing surgical DRGs, using the secondary, rather than principal, diagnoses.

Response: We believe the addition of DRGs 476 and 477 will add to the refinement of the DRG classification system and provide a more equitable system of payment. We will, of course, be monitoring the discharge bills and plan to review the implementation of these two new DRGs during the next fiscal year. We will also continue to study ProPAC's recommendation although we have reservations with this method as explained in detail in the proposed rule (53 FR 19504).

Comment: One commenter noted that Table 6c included procedure code 20.09 (Other myringotomy), which is not an operating room procedure.

Response: The commenter is correct and we are deleting procedure code 20.09 from Table 6c. Based on further review, we have also deleted two other procedure codes from Table 6c: 86.09 (Other incision of skin and subcutaneous tissue) and 86.3 (Other local excision or destruction of lesion or tissue of skin and subcutaneous tissue).

Since neither procedure is currently classified as an OR procedure, neither should have been included in Table 6c to begin with. In addition, we note that in Table 6c, the second column has been corrected by adding procedure code 20.01 (Myringotomy with insertion of tube) after procedure code 15.13, as discussed in the correction notice published July 21, 1988.

In Table 6c in section VI of the addendum to this final rule, we have listed the ICD–9–CM procedure codes for all of the procedures we would consider nonextensive procedures if performed with an unrelated principal diagnosis. These cases will be grouped in DRG 477.

We have modified the titles of DRGs 468, 476 and 477 as follows:

DRG 468—Extensive Operating Room Procedure Unrelated to Principal Diagnosis
DRG 476—Prostatic Procedure Unrelated to Principal Diagnosis
DRG 477—Non-Extensive Operating Room Procedure Unrelated to Principal Diagnosis

8. Changes to the ICD–9–CM Coding System.

As discussed above in section III.B.1. of this preamble, ICD–9–CM is a coding system for the reporting of diagnostic information 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 charged with the mission of maintaining and updating the ICD–9–CM. This includes approving new coding changes, 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 Committee is co-chaired by the National Center for Health Statistics (NCHS) and HCFA. The NCHS has primary responsibility for the ICD–9–CM diagnoses codes included in Volumes 1 and 2 Diseases: Tabular List and Diseases: Alphabetic Index, while HCFA has primary responsibility for the ICD–9–CM procedure codes included in Volume 3—Procedures: Tabular List and Alphabetic Index.

The Committee encourages participation in the above process by major 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 input into coding matters from representatives from recognized organizations in the coding fields, such as the American Medical Record Association, the American Hospital Association, and the Commission on Professional and Hospital Activities, as well as physicians, medical record administrators, and other members of the public. Considering the opinions expressed at the public meetings, the Committee formulates recommendations, which then must be approved by the co-chair agency heads (that is, the Administrator of HCFA and the Director of NCHS) before adoption for general use.

The Committee presented proposals for coding changes at a public meeting held in Washington, DC on December 4, 1987 and finalized the coding changes after consideration of comments received at that meeting and in writing in the 30 days following the meeting. The initial meeting for consideration of coding issues for resolution in FY 1989 was held on April 14, 1988. Copies of the minutes of these meetings may be obtained by writing to the co-chairpersons representing NCHS and HCFA. We encourage commenters to address suggestions on coding issues involving diagnosis codes to: Ms. Sue Meads, R.R.A, Co-Chairperson, ICD–9–CM Coordination and Maintenance Committee, NCHS, Rm 2–19, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Questions and comments concerning the procedure codes should be addressed to: Ms. Patricia E. Brooks, Co-Chairperson, ICD–9–CM Coordination and Maintenance Committee, HCFA, Office of Coverage Policy, Rm 309, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

The additional new ICD–9–CM codes that have been recommended by the Committee and approved by both agency heads will become effective October 1, 1988. The new ICD–9–CM codes are listed, along with their proposed DRG classifications, in Tables 6a and 6b in section VI of the addendum.

Further, the Committee recommended, and the agency heads approved, the deletion of ICD–9–CM procedure code 48.66 (Hartmann resection of the rectum). This procedure will be classified under ICD–9–CM procedure code 45.75 (Left hemicolectomy), which is classified by the Grouper program as follows:

MDC 6 DRGs 148 and 149
MDC 10 DRGs 292 and 293
MDC 17 DRGs 400, 406, and 407
MDC 21 DRGs 442 and 443

Comment: We received a number of comments concerning the proposed Grouper assignment of the ICD–9–CM diagnoses and procedure codes that will become effective October 1, 1988. As we stated in the proposed rule, the code numbers and their titles have been finalized by the ICD–9–CM Coordination and Maintenance Committee and approved by the heads of both HCFA and NCHS. The proposed notice only solicited comment concerning the Grouper assignment of the codes.

Comment: Several commenters noted errors in Tables 6a and 6b as set forth in section IV of the addendum to the proposed rule (53 FR 19585–19587).

Response: We believe all of these errors were addressed in the correction notice to the May 27, 1988 proposed rule, which was published on July 21, 1988 (53 FR 27535). Since we received many of these comments prior to publication of this correction notice, we are restating the applicable corrections here:

- On page 19585, in Table 6a, the second column is corrected by adding DRG 388 to diagnosis codes 765.00, 765.06, 765.07, and 765.08 and by adding DRG 387 to diagnosis code 765.10.
- On page 19585, in Table 6b, the third column is corrected by changing the DRG for procedure code 20.95 from "3" to "55" and the DRG for procedure code 37.33 from "Non-OR" to "108, 109" and by adding DRG 156 to procedure code 42.25.

Comment: The majority of the commenters on the Grouper assignment of the new procedure code 37.34, (Catheter ablation of lesion or tissues of heart) argued that the ablation through a catheter should be considered an OR procedure and continue to be assigned to DRGs 108 and 109.

Response: We agree that this procedure should still be considered an OR procedure, but would classify it with vascular procedures since open heart surgery is not involved. Therefore, we are assigning procedure code 37.34 to DRG 112 (Vascular Procedures except Major Reconstruction without Pump) and DRG 108 (Other Cardiothoracic or Vascular Procedures with Pump).

Comment: The American College of Cardiology and a number of cardiologists and electrophysiologists objected to the proposed treatment of new procedure codes 37.26 (Cardiac electrophysiologic stimulation and recording studies) and 37.27 (Cardiac mapping) as non-OR procedures since that meant such procedures would have no effect on DRG assignment.

A majority of the commenters believed that the electrophysiologic (EP) studies should be treated as either a cardiac catheterization or an OR procedure for the purpose of DRG assignment. Although generally performed in a catheterization laboratory or radiology suite, rather than in an operating room, EP studies involve significant levels of time and resources in managing patients with potentially life-threatening cardiac arrhythmias. Multiple drug testing in cases that do not ultimately involve surgery can involve stays over 2 weeks in length.

Response: Generally, we continue to classify a new ICD–9–CM code in the same DRG as the non-specific or temporary code previously in use until we can obtain data on the charges in those bills showing the new specific code. EP studies and cardiac mapping, which are identified under temporary code 37.29 (Other diagnostic procedures on the heart), have been used since the early 1980's to determine the appropriate antifibrillation agent to be prescribed for patients with arrhythmias. Accordingly, we believe the cost of such studies is already reflected in the relative weights of both the medical and surgical DRGs in which such cases are currently classified. Therefore, using cases in MDC 5 (Diseases and Disorders of the Circulatory System) in the FY 1987 MEDPAR file, we divided cases in each DRG into two categories, those with procedure code 37.29 and those without. In DRGs 138 and 139 (Cardiac Arrhythmia and Conduction Disorders), where we would expect to find the highest incidence of EP testing and cardiac mapping, procedure code 37.29 is present in less than one-half of one percent of the cases (less than 1,200 out of some 250,000 cases).

To the extent the occurrence of procedure code 37.29 represents the true incidence of EP studies or cardiac mapping, we believe the number of cases is too small to warrant differential payment and that there are sufficient numbers of other cases to average out payments. To the extent that EP studies and cardiac mapping occur much more frequently than our data would suggest, we encourage hospitals to record these codes on their billing forms so that we might conduct a more thorough analysis of these procedures in the future. At the present time, however, we believe it is inappropriate to construct a new DRG or to test these two procedures as OR procedures for an unknown set of cases whose incremental cost has been reported to us as ranging from $5,000 to $21,000.

The recalibrated weights for these DRGs are based upon the total Medicare charges in FY 1987 for all cases in MDC 5, including those in which EP studies or cardiac mapping were performed. Regardless of the procedures coded or represented on the bill, the charges include those of the procedures performed Those exceptionally expensive cases may fall outside the outlier thresholds, thus qualifying for additional payments as outliers.

We received 34 comments concerning EP studies, 23 of which were from hospitals. Twenty of the comments from hospitals were from teaching hospitals. (The other 11 comments were from individual cardiologists.) Teaching hospitals receive additional payments adjustments to compensate for the increased costs of treating a specialized patient population and funding their teaching programs.

Comment: Two commenters asked for a description of the conforming changes to the DRG Grouper logic in MDC 15 (Newborns and Other Neonates with Conditions Originating in the Perinatal Period) to incorporate the new fifth digit subclassification to denote birthweight in ICD–9–CM categories 764 and 765. Since the DRG assignments shown in table 6A of the proposed rule do not simply follow the assignment of the four digit codes, they wanted to know how the five-digit codes will be shown on the CC list and "major problem" list in MDC 15.

Response: The commenters are correct in their observation that we did not substitute each new set of five-digit newborn diagnosis codes for the corresponding four-digit code whenever it occurs in the MDC 15 Grouper logic. Although the incremental birthweight classification will doubtless provide more specific data on the treatment of "light for dates" and premature neonates, the application of these weight categories to all four-digit diagnosis codes in categories 764 and 765 of the ICD–9–CM produced some improbable categories for DRG assignment.

Following a convention used in the ICD–9–CM Tabular Lists (ICD–9–CM Volume I, page xxiii, DHHS Publication No. (PHS) 80–1260), the fifth digits are required to be added to all four-digit diagnosis codes in categories 764 and 765. A fifth digit of zero denotes an unspecified birthweight; a fifth digit of one through nine specifies increments from less than 500 grams to 2,500 or more grams. The conflicts arise when these weight subclassifications are applied to the existing definitions for 764 and 765, which were not revised in this addendum to the ICD–9–CM.

For example, category 765 (Disorders relating to short gestation and unspecified low birth weight) is divided into two four-digit codes. The first, 765.0 (Extreme immaturity), usually implies a birthweight less than 1,000 grams or a gestation period of less than 28 completed weeks. The second category, 765.1 (Other preterm infants), usually implies a birthweight of 1,000–2,499 grams or a gestation period of 28–37 completed weeks. Since all five-digit categories apply, we now have a new diagnosis code 765.09 (Extreme immaturity, 2,500+grams) in which there is an inherent conflict between the clinical picture of extreme immaturity depicted by the first four digits and the birthweight specified by the fifth digit (2,500 or more grams). If we accepted this code without review and assigned it to the DRG in which 765.0 was previously assigned, it would go to DRG 386 (Extreme Immaturity or Respiratory Distress, Neonate). However, we consider it for more likely that this particular code was assigned in error than that an extremely immature infant exhibits of birth weight of 2,500 or more grams. For that reason, diagnosis code 765.09 will be assigned to DRG 470 as ungroupable with this principal diagnosis. Intermediaries will return these cases to the hospital for validation or correction.

We believe that hospitals will consider the clinical scenario implied by the four-digit rubrics before using the new codes that represent increments of birth weight for preterm and "light-for-dates" infants. We will work with the other members of the Coordination and Maintenance Committee to provide coding guidance and, if necessary, to develop revised definitions of the 764 and 765 categories that reflect the five-digit subclassifications. In the meantime, with the exception of diagnosis code 765.09, as described above, we have assigned the newborn codes to the DRGs that correspond most to the newborn actually described by the code.

The specific DRG assignments required conforming changes to the Grouper logic that may not have been apparent to all of the readers of the May 27, 1988 proposed rule. A detailed list of the changes follows:

- The following diagnosis codes are added to the complications and comorbidities list:

765.01 Extreme immaturity, less than 500 grams
765.02 Extreme immaturity, 500–749 grams

765.03 Extreme immaturity, 750–999 grams
765.04 Extreme immaturity, 1,000–1,249 grams
765.05 Extreme immaturity, 1,250–1,499 grams
765.06 Extreme immaturity, 1,500–1,749 grams
765.07 Extreme immaturity, 1,750–1,999 grams
765.08 Extreme immaturity, 2,000–2,499 grams

• We have revised Tables 6d and 6e to reflect conforming changes in the CC Exclusions List resulting from the new diagnosis codes for neonates. Specifically:

—Diagnoses 765.01–765.08 (Extreme immaturity) are excluded as CCs for principal diagnoses 764.00–765.19, 767.8, 767.9 and 779.8.
—Since diagnosis code 765.0 is now obsolete, it is dropped from the excluded CCs for similarly obsolete principal diagnoses 764.0—765.1, and for principal diagnoses 767.8, 767.9 and 779.8.

• The following diagnoses are considered "major problems" for purposes of DRG 387 (Prematurity with Major Problems) and DRG 389 (Full Term Neonate with Major Problems):

764.11—764.18 "Light for dates" with signs of fetal malnutrition
764.21–764.28 Fetal malnutrition without mention of "Light-for dates"

• The following diagnoses are considered "significant problems" for purposes of DRG 390 (Neonate with Other Significant Problems):

764.00—764.08 Light-for-dates without mention of fetal malnutrition
764.10 "Light-for-dates" with signs of fetal malnutrition, unspecified [weight]
764.19 "Light-for-dates" with signs of fetal malnutrition, 2,500+grams
764.20 Fetal malnutrition without mention of "light-for-dates", unspecified [weight]
764.29 Fetal malnutrition without mention of "light-for-dates", 2,500+grams
764.90–764.98 Fetal growth retardation, unspecified

9. Other Issues

a. *Cochlear Implants.* In the September 1, 1987 final notice on changes to the DRG classification system (52 FR 33143), we agreed to evaluate the placement of cochlear implant discharges in DRG 49 (Major Head and Neck Procedures). We examined the mean standardized charge for all cochlear implants and separately examined the mean standardized charges for single channel and multichannel implants. Because we determined that the Medicare data do not indicate that there would be a material difference in the weighting factors if a separate DRG were created for cochlear implants, we did not propose to create a separate DRG.

Comment: We received two comments concerning the classification of cochlear implants in DRG 49. One commenter stated that the payment amount for DRG 49 is not sufficient because it only covers the cost of the cochlear implant device to the hospital and provides no payment for any other services during the inpatient stay. The other commenter reviewed all 69 discharges coded as cochlear implants in FY 1987 and stated that some of the bills were not coded as multichannel implants although contact with the hospital revealed that a multichannel device had been implanted. The commenter eliminated certain discharges from the study because the standardized charges were less than $6,000, which the commenter believed to be below the charges for all cochlear implants on the market, and eliminated others because the length of stay and principal diagnosis were believed to be incompatible with cochlear implant procedures. This commenter suggested that multichannel cochlear implant cases should be separated from other cochlear implants and assigned to a new DRG or that all cochlear implant discharges be assigned to DRG 2 (Craniotomy for Trauma Age>17) in MDC 1 (Diseases and Disorders of the Nervous System) because the procedure involves the auditory nerve, one of the 12 cranial nerves.

Response: For FY 1989, the weights for each DRG were established by dividing the mean standardized charges for cases in that DRG by the mean standardized charges for all Medicare cases, using billing data from FY 1987. The standardized charges are derived from the charges submitted by the hospital on the bill for each discharge in FY 1987. We can only assume that what the hospital submits as its charges on each bill are in fact the actual total charges. The hospital is not under any obligation to show charges equal to or greater than its costs for services.

We note, nevertheless, that our data showed that in DRG 49, the mean standardized charge for cases other than cochlear implants was $14,033. In the study submitted by one commenter, after excluding those discharges that were believed to be incorrect, the mean standardized charges were $14,610 for all cochlear implants. That means that there is little difference (about 4 percent) between the standardized charges for cochlear implants and those for all other procedures in DRG 49. Given this slight difference in charges, combined with the fact that cochlear implants represents less than one percent of the cases in DRG 49, we see no compelling reason to move the classification of cochlear implants from DRG 49.

We believe that the commenters suggestions to move cochlear implants to DRG 2 would also violate a basic premise of the prospective payment system, which is to assign a DRG based on the principal diagnosis rather than the procedure that is performed. Since all of the diagnoses related to hearing disorders which can be ameliorated by cochlear implants are located in MDC 3 (Diseases and Disorders of the Ear, Nose, Mouth and Throat) rather than MDC 1 (Diseases and Disorders of the Nervous System), the movement of the procedure codes for cochlear implants from DRG 49 to DRG 2 would merely produce DRG 468 assignments since the procedure would appear in the Grouper logic to be unrelated to the principal diagnosis for which it is performed.

We will continue to review the classification of cochlear implants. However, as noted above, since only 1 percent of the total cases in DRG 49 are cochlear implants, and the standardized charges for other cases are similar to the standardized charges for other cases in DRG 49, we do not believe a classification change at this time is warranted.

We recognize that hospitals may be experiencing some problems with the coding of cochlear implants. We have notified interested organizations of the need to educate hospital coders and hospital management of the need to use the device-specific code and expect to see explanatory materials printed by these organizations. We have provided materials on coding changes through the intermediaries.

b. *Tissue Plasminogen Activator (TPA).* Prior to publication of the proposed rule, we received inquiries concerning whether HCFA has any plans to pay for tissue plasminogen activator (TPA), a thrombolytic agent used in treating blockages of coronary arteries, in a special manner. Those making inquiries assert that hospitals need to be shielded from the effects of TPA's high price.

We considered this issue and the arguments presented. However, we have determined that TPA should not be singled out for special treatment. That is, we believe that the update factors established in section 1886(b)(3)(B)(i) of the Act, combined with the potential for continuing improvements in hospital

productivity, and annual recalibration of the DRG weights, are adequate to finance appropriate care of Medicare patients. We concluded, as has ProPAC, that a special accommodation for TPA would not be appropriate. (See the May 27, 1988 proposed rule at 53 FR 19654 for a complete description of our position on this matter.)

Comment: Several commenters stated that HCFA should consider providing an adjustment to the prospective payment rate for TPA.

Response: We continue to believe that the update factors provided for in section 1886(b) of the Act as well as the annual recalibration provide sufficient recognition of TPA. Since the recalibration process uses actual hospital charges, the hospital resources directly associated with TPA will be used in the calculation of the DRG weights in the future.

In addition, clinicians continue to debate the issue of which thrombolytic agent of those now available, including TPA, is the best and most effective to use, particularly for the Medicare population. No large mortality study has yet been completed that shows significant differences among drugs in terms of long-term mortality or other significant outcomes. Research is still ongoing with newer thrombolytic agents that appear promising.

A separate payment for a new advance could be counterproductive because it potentially creates an incentive to use the technology in cases in which it may not be appropriate. In addition, a payment would insulate hospitals from the consequences of their actions with respect to resource use. Rather than a special add-on for any new advance that would only benefit hospitals using the advance, the general principles of the prospective payment system permit hospitals to choose which advances are appropriate for the care and services they furnish to Medicare beneficiaries.

Comment: One commenter wrote requesting a special payment adjustment for magnetic resonance imaging (MRI) scans.

Response: As we have stated previously, we do not believe a separate payment adjustment for MRI is warranted. (See 51 FR 20003). We continue to believe that the annual update factor, a portion of which recognizes changes in new technology, and the annual recalibration process are the appropriate means of taking new technologies into account.

As part of our ongoing review process, we looked at the standardized charges in each DRG for FY 1987 after separating the discharges where MRI was coded from those in which MRI was not coded. In many DRGs the standardized charges for cases with MRI were lower than the standardized charges for similar cases without MRI. There was no consistent pattern in the standardized charges for cases involving MRI across DRGs.

The fact that the standardized charges for cases with MRI were sometimes lower than those for other cases suggests that MRI may in fact be replacing other more expensive technologies and that no payment adjustment may be necessary or appropriate.

Comment: Several commenters raised DRG classification and weighting issues that had not been discussed in the proposed rule and requested that we make several DRG changes. Among the issues raised were the following:

- Analysis of the importance of CC in DRGs not currently partitioned by presence or absence of CC;
- Expansion of DRG 474 (Respiratory System Diagnosis with Tracheostomy) and DRG 475 (Respiratory System Diagnosis with Ventilator Support) to include principal diagnoses from any MDC when ventilator support is used.
- Classification of limb salvage surgery in patients with major arterial occlusive disease in the lower extremities.
- Identification of certain diagnoses that do not require unusual neonate care as "significant problems" for purposes of assigning cases in MDC 15 to DRG 390 (Newborns and Other Neonates with Conditions Originating in the Perinatal Period).
- Appropriateness of the DRG classification and relative weight for bone marrow transplants.
- Classification of extracorporeal shock wave lithotripsy (ESWL) as a non-O R procedure for DRG assignment.

Response: To consider new issues that arise during a comment period, especially those that are not directly related to proposed changes, would require us to make hasty decisions without the benefit of detailed, reasoned analysis or public comments. This is equally true of ongoing evaluations that have not been concluded or did not establish evidence to support a proposed change. Consequently, we do not intend to make a general practice of setting forth new DRG changes in final rules or notices, other than those directly related to changes that were previously proposed. We will, however, where appropriate, place the issues raised on our agenda for study during FY 1989.

We want to assure these commenters that we are not minimizing the issues that they have raised here. Each represents an area that is being evaluated by HCFA staff. We welcome further suggestions for issues to study and encourage commenters to submit detailed proposals early in the Federal fiscal year so that we are not hampered in our decisionmaking process by time constraints imposed by the statutorily required publication process. That is, in order to meet the new statutory requirement for publication of a proposed notice by May 1 of each year, we must complete our evaluative process by no later than March of each year. Suggestions may be submitted to: Grouper Changes, P.O. Box 26681, Baltimore, Maryland 21207.

Comment: ProPAC reiterated a previous inquiry about the status of our investigation of the DRG assignment of procedure code 58.93 (Implantation of artificial urinary sphincter (AUS)), which was effective October 1, 1986. AUS had previously been classified under procedure code 57.99 (Other operations on bladder, not elsewhere classified (NEC)), which was assigned to DRGs 308 and 309 (Minor Bladder Procedures) and DRGs 442 and 443 (Other Procedures for Injuries).

Response: We stated in the March 13, 1986 proposed notice concerning changes to the DRG classification system (51 FR 8769) that we would continue to classify this procedure in the same DRG as the previous coding assignment. However, we also stated that if data available under the new code indicated a need for reclassification, we would publish the reassignment for public comment as required by § 412.10.

When the Grouper program was amended to accommodate procedure code 58.93 in October 1986, we misspecified the code under which AUS had previously been identified as 58.99 (Other operations on urethra and periurethral tissue NEC), instead of 57.99. As a result, AUS was erroneously assigned to the following DRGs: DRGs 312, 313, and 314 (Urethral Procedures), DRGs 344 and 345 (Other Male Reproductive System OR Procedures, for Malignancy and Except for Malignancy, respectively), and DRG 365 (Other Female Reproductive System OR Procedures). Since we did not publish a discussion of this Grouper change in the final notice of June 3, 1986 (51 FR 20192), the industry correctly assumed that no change was intended and had no reason to verify the assignment of the new code.

HCFA validation of the Grouper program showed 58.93 assigned according to specification, that is, as if AUS were previously coded 58.99. This

error went undetected until late 1987, when both ProPAC and American Medical Systems, a manufacturer, contacted us to question the current assignment.

We have corrected the assignment in the Grouper program that will become effective October 1, 1988 and are taking action to notify Medicare intermediaries to add an adjustment to their claims processing systems to correctly assign 58.93 to DRGs 308, 309, 442, and 443 for discharges occurring in FYs 1986 and 1987. Payment adjustments for these cases are exempt from the requirement in § 412.60(d) that a hospital can only appeal a DRG assignment within 60 days of the date of the notice.

C. Recalibration of DRG Weights

One of the basic issues in recalibration is the choice of a data base that allows us to construct relative DRG weights that most accurately reflect current relative resource use. Since FY 1986, the DRG weights have been based on charge data. The latest recalibration, which was published as a part of the FY 1988 prospective payment final rule, used hospital charge information from the FY 1986 Medicare provider analysis and review (MEDPAR) file. For a discussion of the options we considered and the reasons we chose to use charge data beginning in FY 1986, we refer the reader to the rules published on June 10, 1985 (50 FR 24372) and September 3, 1985 (50 FR 35652).

We proposed to use the same methodology for the FY 1989 recalibration as we did for FY 1988. That is, we recalibrated the weights based on charge data for Medicare discharges. However, we used the most current charge information available, the FY 1987 MEDPAR file, rather than the FY 1986 MEDPAR file. The MEDPAR file is based on fully-coded diagnostic and surgical procedure data for all Medicare inpatient hospital bills.

The proposed recalibrated DRG relative weights were constructed from FY 1987 MEDPAR data, received by HCFA through December 1987, from all hospitals subject to the prospective payment system and short-term acute care hospitals in waiver States. The MEDPAR file included data for approximately 9.5 million Medicare discharges. The MEDPAR file updated through June 1988 includes data for 9.75 million Medicare discharges and this is the file used to calculate the weights set forth in Table 5 of this final rule.

The methodology used to calculate the DRG weights from the MEDPAR file is as follows:

- All the claims were regrouped using the revised DRG classifications discussed above in section III.B. of this preamble.
- Charges were standardized to remove the effects of differences in area wage levels, indirect medical education costs, 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 criterion as was used in computing the current weights. That is, all cases outside of 3.0 standard deviations from the mean of the log distribution of charges per case for each DRG were 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 weighting factor.
- We established the weighting factor for heart transplants (DRG 103) in a manner consistent with the methodology for all other DRGs except that the heart transplant cases that were used to establish the weight were limited to those Medicare-approved heart transplant centers that have cases in the FY 1987 MEDPAR file.
- Kidney acquisition costs continue to be paid on a reasonable cost basis but, unlike other excluded costs, kidney acquisition costs are concentrated in a single DRG (DRG 302, Kidney Transplant). For this reason, it was necessary to make an adjustment to prevent the relative weight for DRG 302 from including the effect of kidney acquisition costs, since these costs are paid separately from the prospective payment rate. Kidney acquisition charges were subtracted from the total charges for each case involving a kidney transplant prior to computing the average charge for the DRG and prior to eliminating statistical outliers.
- Heart acquisition costs, like kidney acquisition costs, continue to be paid on a reasonable cost basis and are similarly concentrated in a single DRG (DRG 103, Heart Transplant). Accordingly, for the heart transplant cases in the updated MEDPAR file used for recalibration, we subtracted from the total charges of each case an estimate of heart acquisition charges prior to computing the average charge for the DRG and prior to eliminating statistical outliers, identical to the adjustment we make for removing kidney acquisition charges from cases in DRG 302. For additional information about the methodology for estimating heart acquisition costs, see the September 1, 1987 final rule at 52 FR 33037.

The weights developed according to the methodology described above, using the revised Grouper program, result in an average case weight that is different from the average case weight before recalibration. Therefore, the new weights were normalized by an adjustment factor so that the average case weight after recalibration is equal to the average case weight prior to recalibration. This adjustment is intended to ensure that recalibration by itself neither increases nor decreases total payments under the prospective payment system.

When we recalibrated the DRG weights for FY 1986 and FY 1988, we set a threshold of 10 cases as the minimum number of cases required to compute a reasonable weight. In FY 1988, there were 32 DRGs that contained fewer than 10 cases. We proposed to use that same case threshold in recalibrating the DRG weights for FY 1989. In the FY 1988 recalibration, we computed the weight for the 32 low-volume DRGs by adjusting the original weights of these DRGs by the percent change in the weight of the average case in the remaining DRGs. However, we note that normalization (discussed above) results in holding constant the weight for low-volume DRGs since the adjustment factor is the same as the percent change in the weight of the average case across all DRGs. We proposed to use this same methodology for the FY 1989 recalibration. Using the FY 1987 MEDPAR data set, there are 35 DRGs that contain fewer than 10 cases.

As discussed in the proposed rule at 53 FR 19507, ProPAC, in its Recommendation 15, recommended that, starting with the FY 1989 recalibration, the DRG weights be recalibrated annually on the basis of costs rather than charges. However, ProPAC indicated concern about the current Medicare cost-finding methods for estimating costs because the limitations of the Medicare cost report data may in some cases produce imprecise DRG weights. Therefore, ProPAC recommended that the Secretary verify the accuracy of the cost report data and implement changes as necessary.

While time constraints preclude us from adopting ProPAC's recommendation for FY 1989, we believe that recalibration of the DRG weights using costs does warrant further consideration. We plan to examine the feasibility of developing cost-based DRG relative weights for FY 1990. However, as we have noted previously, we continue to believe at this time that

the disadvantages associated with charge-based weights are compensated for by the fact that for purposes of recalibration, charge data are available on a more timely basis than cost data. For example, for the recalibrated weights for FY 1989, we used FY 1987 Medicare billing data from the MEDPAR file. However, we have yet to obtain a full file of FY 1986 Medicare cost reports. Thus, any cost data we were to use for recalibration would be at least one year and perhaps as much as two years older than the most recent available charge data.

In addition, since costs are not accumulated on an individual case basis, DRG by DRG, it is necessary even in developing cost-based weights to link ancillary charge data from the claims file to cost report data as part of the process of estimating the average costs of cases in each DRG. To maintain consistency and to accurately determine relative resource use, charge data for the same period as the cost data should be used in cost-based recalibration. Therefore, both the charge and cost data that would be used would be significantly older than the most recently available charge data, which we can use by itself to obtain DRG relative weights.

We believe that using old data is inappropriate, particularly given the rapid advances in medical technology and resulting changes in treatment patterns. We further believe that it is in the best interest of the hospitals and Medicare beneficiaries that the resource use associated with these major new medical advances be reflected in the DRG weights as soon as possible. This can be accomplished by the use of charge-based weights computed on an annual recalibration schedule. We are concerned that use of cost-based weights would significantly delay recognition of new technologies or greatly complicate the recalibration process by necessitating a number of special adjustments to take such new technologies into account. Therefore, if we decide to adopt cost-based weights in the future, we believe it is essential that we address the timeliness problem and take steps to ensure that changing technologies are reflected in the DRG relative weights on a timely basis.

Comment: Many commenters expressed support for continuing to use charge data to recalibrate the DRG weighting factors. These commenters expressed the same reservations we had about the timeliness and accuracy of the Medicare cost data. Only two commenters believed that cost data were more appropriate for recalibrating the DRGs.

Response: As we stated in the proposed notice, we believe the timeliness of the data is the most important consideration in recalibrating the DRG weighting factors. We wish to recognize the effects of new technology on the DRGs as soon as possible. Charge data only lag about a year behind the current fiscal year data compared to cost data, which would be two years old. Also, the time constraints for FY 1989 would prevent us from adopting such a complete change from the present methodology.

As discussed above, we will examine the feasibility of using cost data for future fiscal years and we will consider which type of an adjustment might need to be made to account for ancillary costs on a case-by-case basis.

Comment: One commenter wrote about fluctuation in the heart transplant weight (DRG 103), noting that it has been very volatile during the time since Medicare coverage was first extended to heart transplants and suggesting that such volatility was a function of the data used to establish the weighting factor. Because the weight for DRG 103 has risen considerably since last year to a factor the commenter considers more reflective of the true resource consumption of heart transplant cases, this commenter recommends that the Medicare program should make retroactive adjustments in the payments for heart transplants furnished during FY 1988. Questioning the appropriateness of using charges to recalibrate the weights for a new technology, the commenter finally argues that the heart transplant weighting factor for FY 1989 be established at least 17.2554 in order to cover the average costs of heart transplantation services, as estimated by the commenter based on a sample of ten hospitals with ten Medicare cases each.

Response: We agree that the weighting factor for heart transplants has shifted depending upon the data base used to establish the relative weights. The original weight for heart transplant cases was based on Medicare and non-Medicare charge data for 52 transplants, performed at six hospitals, accumulated under the National Heart Transplant Study (NHTS). The NHTS provided the most reliable and comprehensive compilation of cost data at the time the original weight was developed. For FY 1988 and FY 1989, the weighting factors for heart transplants, as is the case for all DRGs, was based on Medicare billing records. The weight in effect for FY 1988 was based on data for 55 heart transplant cases in the FY 1986 MEDPAR file. The weight in effect for FY 1989 (see Table 5 of this final rule) is based on data for 47 heart transplant cases in the FY 1987 MEDPAR file. (The transplant cases that were used to establish the FY 1989 weight were limited to those Medicare-approved heart transplant centers that had cases in the FY 1987 MEDPAR file, whereas cases used to establish the FY 1988 weight was not thus limited.) However, in all cases, the relative weight was based on the most recent and reliable data available and was computed in a manner consistent with the methodology for all other DRGs. Hence, we do not agree with the commenter's recommendation that the Medicare program make retroactive adjustments in the payments for heart transplants furnished during FY 1988.

Finally, we note that the weighting factor of 17.2554 suggested by the commenter is based on certain assumptions that would tend to inflate the estimate. Using data from ten institutions in 1987, the commenter argues that such a weight would be required to cover the average costs of heart transplantation services at these facilities. The results are based on the assumption that the facilities would not receive any indirect medical education or disproportionate share payments, and would be paid on the basis of a wage index value of 1.1. Since most heart transplantation centers are large, teaching hospitals located in major metropolitan areas, the suggested weighting factor would, in general, result in overpayments to heart transplant centers. In fact, it is precisely because certain types of procedures tend to be performed more often in certain types of providers that we standardize charges in the recalibration process to remove the effects of differences in area wage levels, indirect medical education costs, and disproportionate share payments.

IV. Changes to the Hospital Wage Index

Section 1886(d)(2)(C)(ii) of the Act required, as a part of the process of developing separate urban and rural standardized amounts for FY 1984, that we standardize the average cost per case of each hospital for differences in area wage levels. Section 1886(d)(2)(H) of the Act required that the standardized urban and rural amounts be adjusted for area variations in hospital wage levels as part of the methodology for determining prospective payments to hospitals for FY 1984. To fulfill both requirements, we

constructed an index that reflects average hospital wages in each urban or rural area as a percentage of the national average hospital wage.

For purposes of determining the prospective payments to hospitals in FY 1984 and 1985, we constructed the wage index using calendar year 1981 hospital wage and employment data obtained from the Bureau of Labor Statistics ES 202 Employment, Wages and Contributions file for hospital workers. Beginning with discharges occurring on or after May 1, 1986, we have been using a hospital wage index based on HCFA surveys of hospital wage and salary data as well as data on paid hours in hospitals. The HCFA hospital wage index was developed in an attempt to overcome the limitation of the BLS data with regard to full-time and part-time employment. The methodology used to compute the first HCFA wage index, which was based on 1982 wage data, was set forth in detail in the September 3, 1985 final rule (50 FR 35661).

In the September 1, 1987 final rule, we made a change in the methodology for computing the national average hourly wage, which serves as the basis for indexing the area wage levels (52 FR 33039). To minimize the impact on the national average hourly wage when the wage data for hospitals in an area are adjusted or when hospitals are reclassified from one area to another, we moved from an area-weighted national average hourly wage index to an hour-weighted wage index. That is, we now compute the national average hourly wage by dividing the total wages for all hospitals in the data base by the total paid hours for all hospitals in the data base.

In the September 1, 1987 final rule, we also updated the wage index by using wage data from 1984. However, we did not base the new wage index solely on the 1984 data. Because adoption of a wage index based solely on 1984 data would have resulted in abrupt, large changes in wage index values for some areas because of economic changes in those areas that had occurred between 1982 and 1984, we adopted a blended wage index that incorporated both 1982 and 1984 wage data. The blended index was based on area wage index values computed from 1982 data on an hour-weighted basis and area wage index values computed from 1984 data on an hour weighted basis, equally weighted to produce average area wage index values.

Although we did not propose to change the methodology for computing the wage index for use in FY 1989, we did propose to base the wage index solely on 1984 wage data. We also made a number of corrections to the 1984 wage data based on our continuing analysis of those data.

Section 4005(a) of Pub. L. 100–203 enacted a new section 1886(d)(8)(B) of the Act. Under this new provision, for discharges occurring on or after October 1, 1988, hospitals in certain rural counties adjacent to one or more Metropolitan Statistical Areas (MSAs) would be considered to be located in one of the adjacent MSAs if certain standards are met. (These requirements are explained in greater detail in section V.C.2. of this preamble.) Because of this provision, it was necessary to reclassify the wage data for those rural areas as if the hospitals in those areas were located in the adjacent MSAs and to recompute the wage index values for the affected MSAs and rural areas. The table in section V.A. of this preamble indicates in which MSAs hospitals in certain rural counties will be considered to be located for purposes of the wage index adjustment The wage index tables in section IV of the addendum reflect these revised urban and rural designations.

In accordance with the provisions of section 4004(b) of Pub. L. 100–203, effective October 1, 1988, we proposed to include in the calculation of the wage index certain wage costs for organizations related to hospitals that had received a waiver authorized by section 602(k) of the Social Security Amendments of 1983 (Pub. L. 98–21). For cost reporting periods beginning before October 1, 1986, hospitals that qualified for this waiver were allowed to continue billing for inpatient nonphysician services under part B and to be paid for those services under Part B even though all other hospitals subject to the prospective payment system were required to bill those inpatient nonphysician services under Part A.

The wage costs that are now included in the calculation of the wage index are those for employees of a related organization described above who are directly involved in the delivery and administration of care provided by the related organization to the inpatients of a hospital that received the waiver under section 602(k) of Pub. L. 98–21. Section 4004(b) of Pub. L. 100–203 specifies that these wage costs do not include costs of overhead or home office administrative salaries or any costs not incurred in the MSA in which the hospital is located. We collected the data to implement this provision and have included the data in the calculation of the wage index set forth in this final rule.

We received 33 items of correspondence that commented on the hospital wage index. These comments and our responses are discussed below.

Comment: Several commenters objected to the use of a wage index based solely on the 1984 wage survey data because they asserted that the data contain numerous errors. In addition, several commenters claimed that the 1984 wage survey data were not sufficiently edited or audited to ensure their accuracy. Because of perceived errors in the 1984 wage index, some commenters recommended continued use of the blended wage index until data are available.

Response: Before publication of the blended wage index that incorporated both 1982 and 1984 wage data from prospective payment hospitals, we performed several edits to ensure the accuracy of the 1984 wage data. These edits were discussed in detail in the September 1, 1987 prospective payment final rule (52 FR 33041) in response to comments received concerning the June 10, 1987 proposed rule.

In addition to the edits performed on the 1984 wage data, we have made additional changes and corrections to the 1984 wage data. Several corrections were based on an analysis of the wage index areas to ensure that each hospital was correctly classified either as rural or urban within a particular MSA. These corrections were made before publication of the May 27, 1988 proposed rule and were reflected therein. Another adjustment to the 1984 wage data reflected in the proposed rule was a result of a special wage survey conducted for hospitals that were granted a waiver under section 602(k) of Pub. L. 98–21 and are, or were, involved with related organizations. This special adjustment to the 1984 wage data was required under section 4004(b) of Pub. L. 100–203. This special wage survey for hospitals granted these waivers resulted in a change to the Rochester, Minnesota MSA wage index value.

The last factor that resulted in changes to the 1984 wage data was a result of providers and intermediaries submitting additional documentation that corrected the figures previously submitted for particular hospitals. Any changes requested by providers or their representatives were verified with the intermediaries. As a result, corrections have been made to the following areas since publication of the May 27, 1988 proposed rule: Abilene, Texas; Dallas, Texas; Baton Rouge, Louisiana; and rural South Carolina and Texas.

We regret that the fact that we continue to make corrections to the data has led some to conclude that the 1984 wage index is not sufficiently accurate

to use without blending it with the 1982 wage index. Let us assure our readers that all of the data being used in the 1984 wage index have been certified as accurate by an officer of the hospitals submitting the forms. However, errors do occur, and we do not stop making corrections to the data just because a provider has already certified such data as correct. But we do apply a fairly stringent test before substituting new hourly wage data for old.

As a result of these changes, however, the national average hourly wage rate increased slightly, thus reducing area wage index values for all areas not affected by the changes. Moreover, we have determined that a change in the wage index is not necessarily neutral with respect to aggregate payment to hospitals, despite the change made last year to the manner in which the national average hourly wage is computed. Therefore, until we can evaluate the relationship between changes in the wage index and changes in aggregate prospective payments, we have decided to postpone adoption of a wage index based solely on 1984 wage data and to continue using the blended wage index. This index is comprised of a simple average of area wage index values computed from 1982 data on an hour-weighted basis and area wage index values computed from 1984 data on an hour-weighted basis, equally weighted to produce average area wage index values. (See 52 FR 33040, September 1, 1987, for a discussion of the computation methodology). Given our concern about the negative impact the adoption of a wage index based solely on 1984 data may have on aggregate hospital payments, we believe it is in the best interest of hospitals, as well as the Medicare program, to continue using the blended wage index for FY 1989.

In addition to the corrections to the 1984 wage data discussed above, we have incorporated the statutorily required changes into both wage indexes. Also, the Executive Office of Management and Budget announced that, effective March 14, 1988, Decatur, AL has become a new MSA, and that, effective December 22, 1987, the city of Sullivan, Missouri has become part of the St. Louis, MO–IL MSA. These changes have been incorporated as well.

In addition to the changes described above, we received information from other hospitals that indicated that their 1984 wage data are incorrect. However, these corrections cannot be made in this final rule because documentation and validation from the intermediaries were not received in time for publication in this final rule. After a hospital requested change has been verified by the intermediary and evaluated by HCFA, we will notify the regional offices of the appropriate wage index values. Any changes to the wage index values as a result of corrections in which the documentation was not received in time for publication in this final rule will become effective the day after the regional offices are notified of the corrected wage index values.

Comment: Some commenters, including several members of Congress, asserted that Congress intended that the urban and rural wage indexes were not to be revised just because some hospitals in rural counties are considered to be in an adjacent urban area for prospective payment purposes.

Response: Under section 1886(d)(8)(B) of the Act, as enacted by section 4005(a) of Pub. L. 100–203, and as amended by section 411(b)(4) of Pub. L. 100–360, hospitals in rural counties adjacent to one or more urban areas that meet certain criteria are considered to be located in one of those adjacent urban areas. Under the prospective payment system, hospitals are located in one of the following: a large urban area, another urban area, or a rural area. We find no authority in sections 1886 (d)(2)(D), and (d)(8)(B) of the Act, or in any other part of section 1886 of the Act to set up an additional category of hospitals, rural for some purposes and urban for others.

We note that the Senate version of section 4005(a) of Pub. L. 100–203 provided that the change in location of hospitals from rural areas to urban areas was not to be considered when calculating the hospital wage index. However, as stated in the Conference Committee Report accompanying Pub. L. 100–203, with respect to section 4005(a) of Pub. L. 100–203, "the conference agreement includes the Senate amendment *with modifications.*" (Emphasis added) (H.R. Rep. No. 495, 100th Cong., 1st Sess. 532 (1987)). One modification was that Pub. L. 100–203 did not include the provision that specified that wage index values were not to be revised when a hospital located in a rural area was considered to be located in an adjacent urban area.

Further, as amended by section 411(b)(4) of Pub. L. 100–360, section 1886(d)(8)(B) of the Act now applies "For purposes of this subsection," meaning for purposes of *all* the provisions pertaining to the prospective payment system in section 1886(d) of the Act. Thus, if a hospital is considered "urban" for purposes of prospective payments, it is also considered "urban" for purposes of computing the prospective payment system wage index values.

Comment: Many commenters recommended that HCFA periodically update the wage index. In addition, commenters suggested that the wage data be presented in a manner that permits the hospital and the intermediary to review data submitted to aid in determining if the data are reasonable and accurate.

Response: We agree with the recommendation that the hospital wage index should be updated on a regular basis.

At present we do not have a process in place for obtaining the necessary data on a regular basis. However, we will be investigating the necessity and feasibility of such a process for future updates. We note that section 1886(d)(3)(E) of the Act, as amended by section 4004(a) of Pub. L. 100–203, requires that the wage index be updated not later than October 1, 1990 and at least every 36 months thereafter.

One of the ways we had hoped to update the wage index was with the data from 1986 that were collected from the HCFA Form 339, Exhibit 7, which was designed and developed to enable us to look at the feasibility of developing a wage index that takes into account occupational mix. The collection of the 1986 data is incomplete since the majority of hospitals (more than 60 percent) failed to complete or submit the forms. Also, a preliminary examination of the forms that were submitted suggests that hospitals had numerous problems in completing the forms. We intend in the near future to look into the feasibility of using these data or conducting a new survey in order to update the wage index. In this connection, we will invite the hospital industry to participate in the design and implementation of any new wage survey.

As to presenting data in such a manner as to permit hospitals to review data for accuracy, we have routinely made wage data available upon request, either through the provisions of the Freedom of Information Act or, during the comment period when a revised wage index is newly proposed, on an expedited basis as described in the proposed rule (53 FR 19526–19527).

Comment: One commenter, noting that most MSAs contain fewer than five hospitals, recommended that no hospital should be left out of the calculation of the wage index because of potential data errors or nonavailability of information. If the data are inaccurate or unavailable, the prior year's survey data

should be used and updated by inflation factors.

Response: In the process of collecting both the 1982 and 1984 wage survey forms, we closely monitored the receipt of data from MSAs that contained fewer than four hospitals. To ensure that smaller MSAs were completely represented, we followed up with both hospitals and intermediaries to obtain missing data. For the few hospitals that did not respond, we considered updating missing data or inaccurate data by inflating the prior period's data. However, since the overall response rate in both surveys was so close to 100 percent, and because wages paid by individual hospitals can be volatile from year to year, we elected not to use earlier data. Also, since we do not update the wage index every year, past data from a hospital may be two or more years old. In future updates, we will reconsider this suggestion if survey data appear to be inaccurate or unavailable.

Comment: One commenter suggested that we correct underpayments to all hospitals retroactively for errors in the wage data caused by other hospitals, the intermediaries, or HCFA.

Response: We believe that applying changes to the wage index retroactively would violate the prospective nature of the prospective payment system. Moreover, changes would result in both underpayments and overpayments. That is, if the wage index value is too low for some hospitals, then it is too high for others. In addition, it would be administratively cumbersome to have all intermediaries recompute all processed bills retroactively to reflect small changes in individual area wage indexes.

Depending upon the magnitude of the individual area changes, the national average hourly wage could go up as well as down. An increase in the national average decreases the wage index values for all other areas in which the data remain unchanged. In this situation, all payments would be subject to change. The prevention of such retroactive changes and the consequent uncertainties of payments were two of the reasons for the initial adoption of the Medicare prospective payment system, which replaced the cost reimbursement system.

V. Other Decisions and Changes to the Regulations

A. Physician Attestation (§ 412.46)

Previously, § 412.46(a) required that, as a part of DRG validation, the attending physician must, shortly before, at, or shortly after discharge (but before a claim is submitted), attest to the principal diagnosis, secondary diagnoses, and names of major procedures that have been performed. The information must be in writing in the medical record. Below the diagnostic and procedural information, and on the same page, the following statement must immediately precede the physician's signature:

> I certify that the narrative descriptions of the principal and secondary diagnoses and the major procedures performed are accurate and complete to the best of my knowledge.

In addition, when the claim is submitted, the hospital must have on file a current signed acknowledgment from the attending physician that the physician has received the following notice:

> NOTICE TO PHYSICIANS: Medicare payment to hospitals is based in part on each patient's principal and secondary diagnoses and the major procedures performed on the patient, as attested to by the patient's attending physician by virtue of his or her signature in the medical record. Anyone who misrepresents, falsifies, or conceals essential information required for payment of Federal funds, may be subject to fine, imprisonment, or civil penalty under applicable Federal laws.

The acknowledgment must have been completed within the year prior to the submission of the claim.

HCFA has received a number of requests from hospitals and hospital corporations for permission to install automated systems for executing physician attestations because, with a fully automated system, a physician could record the appropriate information and attest to it from his home or office. Hospitals asserted that the use of fully automated systems is critical for the efficient use of staff, including physician staff, prompt and accurate completion of medical records, and timely submission of claims.

After reviewing materials submitted by various hospitals, we concluded that it would be acceptable for physician attestations to be completed electronically so long as the procedures a hospital establishes are sufficient to achieve the program objectives of the existing requirements. Thus, we proposed that the physician could personally execute the attestation by computer and that the system would contain safeguards to ensure that the physician's identifier is confidential and to enable the physician to determine whether the attestation had been correctly recorded. The physician would be informed of the penalty for making false statements and for allowing others to complete the required attestations using his or her identifier.

Therefore, we proposed to amend § 412.46(a) to provide that a physician attestation may, at the request of a hospital, be completed electronically if the intermediary determines that the hospital's system meets standards established by the Secretary.

We indicated that we expected that two types of physician attestation systems would be approved. The first type involves the use of alpha/numeric identifiers for physicians. First, the physician would gain access to the hospital's records system by entering a physician-specific identification code. Then, the physician would enter diagnosis and procedure information onto a computer and affirm its accuracy.

The second type of physician attestation system involves the use of biometrics. The physician would attest to the diagnoses and the procedure information as discussed above but would gain access to the record system through a computer-assisted device that identifies the physician, for example, by reading his or her fingerprint.

We recognize that there may be other systems available with which we are not familiar and will consider such systems on their merits as we encounter them. This discussion is not intended to be an exhaustive discussion of the possibilities of electronic attestation.

In making this option for electronic signatures available, we anticipate requiring hospitals to take some additional safeguards to ensure that physicians making use of the option are aware of the attestations that have been made and that there is documentation in hard copy to support their attestations. In cases where an alpha-numeric code is used, we would expect a hospital to generate a periodic hard copy list of attestations made by the physician and send it to the physician for his or her signature as a means by which the physician can confirm that the appropriate diagnoses and procedures were reported. In the case of biometric equipment, we would expect the hospital to send the physician a copy of each attestation for his or her records so that there would be a document against which the hospital's reports could be judged.

We note that this option would not be a requirement for physicians. Instead, it is an alternative means of meeting the existing requirement at § 412.46(a). This alternative would be acceptable to us in cases where a hospital and its medical staff determine that they would prefer this alternative and request to use it. Therefore, this change in the regulations would not constitute a new Federal requirement.

We also proposed to make clarifying changes in § 412.46 to explicitly state that the physician attestation and acknowledgment must be dated as well as signed.

The majority of those who commented on this proposal were in favor of the change. However, we also received the following comments:

Comment: Three commenters stated that we should not require that hospitals generate and maintain "hard copies" of the electronically generated attestations. Instead, hospitals should have the option to maintain records in whatever form is most convenient for the period of time required by existing State and Federal laws.

Response: We have not accepted this comment. The proposed alternative attestation provision was developed as a result of hospital requests for a mechanism whereby computers could be used to fulfill a requirement for handwritten signatures. We believe that hard copies are necessary to maintain the integrity of the alternative provision for electronically generated attestations. However, we note that this new alternative is entirely optional. Hospitals that prefer to continue to meet the original requirement for handwritten signatures may do so.

Comment: One commenter asserted that since PROs already conduct DRG validation, which includes the review of physician attestations, PROs should also determine if the hospitals' data system meets established guidelines. If the decision is left with the intermediary, we should require that the intermediary convey its decision to the PRO. Also, we should prohibit PROs from issuing technical denials if a claim's only deficiency is an incomplete or incorrectly completed attestation.

Response: After reviewing the public comments, we have decided that the intermediaries are the entities best suited to verify compliance with the alternative signature requirement and we plan to use them for this purpose. We will continue to evaluate this issue, however, and reserve the option to employ other means of implementing this provision if experience indicates that a change is needed.

The provision for a technical denial if the claim's only deficiency is an incomplete or incorrectly completed attestation was not proposed for revision and we do not anticipate any changes in this area. But we will consider whether we should prohibit PROs from issuing a technical denial if this case warrants action in future rulemaking.

Comment: Three commenters, though in support of the proposed provisions concerning physician attestation, requested that we reexamine the physician attestation requirements altogether. The commenters stated that they believe that the physician attestation requirement has outlived its utility and that it is a large administrative burden to hospitals and remains offensive to many physicians. Also, one commenter is unconvinced that this requirement is essential to the successful prosecution of fraud and abuse relating to the submission of Medicare claims.

Response: Our experience with physician attestation has been that it provides a valuable tool for validating DRG selections, and we continue to believe that it is an appropriate requirement in the context of the prospective payment system. Our reasoning is fully discussed in the preambles to the regulations in which this requirement was established. (See the January 3, 1984 final rule (49 FR 283) and the August 31, 1984 final rule (49 FR 34734).) We have not developed any plans for discontinuing this requirement.

Comment: One commenter stated that the proposed physician attestation rule that the hospital would have to obtain documentation in hard copy if an alpha-numeric identifier is used is impractical and should be revised because it is inappropriate to discriminate between alpha-numeric identifiers and biometric type electronic signatures. In addition, the commenter asserted that long historical experience with alpha-numeric systems should confirm their utility for this purpose without additional safeguards.

Response: As we noted in the discussion of the proposed changes, we believe that the hard copy requirements set forth in the alternative attestation requirement are necessary to maintain accountability and to assure that any rare instance of inappropriate behavior can be successfully dealt with by the Inspector General or the Department of Justice.

Comment: One commenter recommended that we revise our requirement that the current signed acknowledgment from attending physicians must have been completed within the 12 months prior to the submission of the claim in order to prevent a lapse in hospital recordkeeping. The commenter stated that because a hospital may request a new acknowledgement statement from a physician as early as two months before the 12-month period runs out, in some cases a physician might sign the acknowledgement as early as two months ahead of the end of the 12-month period. This would result in moving the beginning of the 12-month period up to this new date. To avoid the possibility of a date change every year for every physician, the commenter recommended that we merely allow the physician to sign the acknowledgement early so that we may continue to apply a 12-month period that starts from the same date each year.

Response: We rejected this comment because we did not propose a change in this provision, and we do not believe that it would be appropriate to do so at this time. However, we will consider these comments in connection with future revisions of the regulations.

Comment: We received a number of comments relating to other aspects of our physician attestation requirements requirements that we had not been proposed for revision and which we do not currently contemplate changing.

Response: As we noted in section I.D. of this preamble, we are not discussing in this document any comments that raised issues not specific to the proposals we made. However, we will consider whether the suggestions made by the commenters would merit action in future rulemaking.

B. Increase in the Prospective Payment Rates and Rate-of-Increase Limits (§§ 412.63, 412.73, 412.208, 412.210, and 413.40)

Section 4002(a) of Pub. L. 100–203 amended section 1886(b)(3)(B)(i) of the Act to provide that the applicable percentage increases for prospective payment hospitals for FY 1988 effective with discharges on or after April 1, 1988 are—

- 3.0 percentage points for hospitals located in rural areas;
- 1.5 percentage points for hospitals located in large urban areas; and
- 1.0 percentage points for hospitals located in other urban areas.

However, under 4002(g)(1)(B) of Pub. L. 100–203, for the purposes of determining the standardized amounts for discharges occurring on or after October 1, 1988 (for FY 1989), the applicable percentage increases effective April 1, 1988 are deemed to have been in effect for the entire FY 1988.

Amended section 1886(b)(3)(B)(i) of the Act also sets forth the applicable percentage increases for FY 1989 as—

- The market basket percentage increase minus 1.5 percentage points for hospitals located in rural areas;
- The market basket percentage increase minus 2.0 percentage points for hospitals in large urban areas; and

• The market basket percentage increase minus 2.5 percentage points for hospitals in other urban areas.

In addition, the applicable percentage increase for FY 1990 and each subsequent fiscal year for hospitals in all areas is the market basket percentage increase.

Section 1886(b)(3)(B) of the Act also governs the target rate-of-increase limits for hospitals and units excluded from the prospective payment system. Section 4002(e) of Pub. L. 100–203 amended section 1886(b)(3)(B)(ii) of the Act to provide that the applicable percentage increase for FY 1988 for these hospitals and units is the market basket percentage increase minus 2.0 percentage points. However, section 4002(g)(3) of Pub. L. 100–203 provided that for a hospital's cost reporting period beginning during FY 1988, payment is made as though the applicable percentage increase equals 2.7 percent times the ratio of 315 to 366. This results in an actual applicable percentage increase for FY 1988 of 2.328 percent. However, for purposes of updating the target rate-of-increase limits for FY 1989, the applicable percentage increase for FY 1988 is deemed to have been 2.7 percent for the entire period.

Section 4002(e) of Pub. L. 100–203 amended section 1886(b)(3)(B)(ii) of the Act to provide that for FY 1989 and subsequent fiscal years the applicable percentage increase for excluded hospitals and units is the market basket percentage increase.

The percentage increases applicable in FY 1988 to hospitals both included in and excluded from the prospective payment system were described in the April 5, 1988 notice at 53 FR 11135. In the May 27, 1988 proposed rule (at 53 FR 19510), we proposed to amend §§ 412.63, 412.73, 412.210 and 413.40 (and to make a conforming change at § 412.212(b)) to implement the provisions of section 1886(b)(3)(B) (i) and (ii) of the Act.)

We also proposed to revise §§ 412.62(k), 412.63(k) (previously §§ 412.63(j), 412.208(i), and 412.210(c)) to clarify in the regulations that when we refer to "geographic areas" in the context of adjusting the rates for different area wage levels, we mean urban and rural areas. We received no comments on these proposals.

C. Changes in Geographic Classification (§§ 412.63, 412.208, and 412.210)

Prior to the enactment of Pub. L. 100–203, section 1886(d)(2)(D) of the Act required the Secretary to compute separate average standardized amounts for hospitals located in urban and rural areas. The term "urban area" is defined as an area within a Metropolitan Statistical Area (MSA). Urban areas in New England are defined as New England County Metropolitan Areas (NECMAs). However, under section 601(g) of Pub. L. 98–21, certain nonurban New England counties were deemed to be parts of urban areas. For purposes of the prospective payment system, we have treated those counties as part of the NECMAs of which they were a part in 1979. The only other exception to the strict use of MSA and NECMA definitions in identifying urban areas has been for a rural county that qualifies for reclassification into an MSA under § 412.63(b)(3). In these two instances, the population of the rural counties deemed to be urban is included in calculating the population of the MSA or NECMA to which the county has been appended for Medicare prospective payment purposes.

1. Establishment of Large Urban Areas

Section 4002(c)(1) of Pub. L. 100–203 amended section 1886(d)(3) of the Act to require the Secretary to compute three average standardized amounts for discharges occurring in a fiscal year beginning on or after October 1, 1987: one for hospitals located in rural areas; one for hospitals located in large urban areas; and one for hospitals located in other urban areas. Section 4002(b) of Pub. L. 100–203 amended section 1886(d)(2)(D) of the Act to define a "large urban area" as an urban area with a population of more than 1,000,000, based on the latest population data published by the Bureau of the Census. In addition, section 4009(i) of Pub. L. 100–203 provides that an 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. Under that section as now amended, urban areas that do not meet the criteria for large urban areas are referred to as "other urban areas."

Based on 1986 population estimates published by the Bureau of the Census, we identified 46 urban areas that meet the criteria to be defined as large urban areas for FY 1988. A list of those areas was set forth in the April 5, 1988 notice at 53 FR 11138. Although we did not propose any changes in these areas for purposes of the May 27, 1988 proposed rule, we stated that if new population estimates are published by the Bureau of the Census before we publish the final rule, we would include any resulting additions to and deletions from the list of large urban areas in that rule. We have been advised by the Bureau of the Census that new population estimates will not be available in time to be evaluated for this final rule. Therefore, the areas meeting the definition of "large urban areas" for discharges occurring in FY 1989 are the same as the ones listed in the April 5, 1988 notice.

We proposed to amend §§ 412.63 and 412.210 to implement the provision of 1886(d)(3) of the Act. In addition, in Table 4a in section IV of the addendum to the proposed rule, which sets forth the wage index values for urban areas, we specifically designated those urban areas that qualify as large urban areas for the convenience of the reader. We have continued this practice in this final rule (see Table 4a in section IV of the addendum).

Comment: We received one comment stating that Lake County, Illinois is part of the Chicago MSA and should therefore be designated as a large urban area.

Response: Lake County has been designated as a separate MSA by EOMB. While it is part of a Consolidated Metropolitan Statistical Area (CMSA) that also includes the Chicago MSA, for purposes of payment under the prospective payment system, we do not use CMSAs in defining urban areas. CMSAs are made up of two or more Primary Metropolitan Statistical Areas (PMSAs). A PMSA is recognized as a separate urban area because it demonstrates very strong internal economic and social links in addition to its ties with another portion of a CMSA. In defining urban areas under the prospective payment system, we recognize MSAs and PMSAs only.

We believe this is consistent with section 1886(d)(2)(D) of the Act, which defines "urban area" as "an area within a Metropolitan Statistical Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under subsection (a) by regulation." Subsection (a) (that is, section 1886(a) of the Act), which was enacted by section 101 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), established limits on total hospital inpatient operating costs for cost reporting periods beginning on or after October 1, 1982. Under section 1886(a) of the Act, we defined an urban area as an area within a Standard Metropolitan Statistical Area (SMSA) or NECMA as designated by EOMB. We did not recognize a Consolidated Standard Metropolitan Statistical Area (CSMSA) as a single urban area but defined urban in terms of each SMSA within the CSMSA separately. On June 30, 1983, EOMB began using MSAs, which replaced the SMSA definitions, and we

adopted the MSA definitions in the same manner as the previous SMSA definitions (that is, we do not recognize CMSAs as single urban areas). Therefore, for purposes of defining large urban areas under the prospective payment system, the population criteria are applied to MSAs and PMSAs, which are the same areas used to define labor market areas in developing the HCFA wage index.

2. Revision of Standards for Including a Hospital Located in a Rural County in an Urban Area

Section 4005(a) of Pub. L. 100–203 revised 1886(d)(8) of the Act to provide that, if certain conditions are met, the Secretary would 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. As specified in section 1886(d)(8)(B) of the Act as enacted by section 4005(a) of Pub. L. 100–203 and amended by section 411(b)(4) of Pub. L. 100–360 (see discussion, below), 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 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 the Executive Office of Management and Budget (EOMB) 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 just to one) were considered.

A county meeting the above commuting standards must also meet the other standards established by EOMB 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 EOMB standards, which were published in the **Federal Register** on January 3, 1980 (45 FR 956):

- At least 50 percent of the employed workers residing in the county commute to the central county or counties and the population density is at least 25 persons per square mile.
- From 40 percent to 50 percent of the employed workers residing in the county commute to the central county or counties and the population density is at least 35 persons per square mile.
- From 25 percent to 40 percent of the employed workers residing in the county commute to the central county or counties and the population density is at least 35 persons per square mile. In addition, the county meets at least one of the following conditions:

—The county has a population density of at least 50 persons per square mile.
—At least 35 percent of the population in the county is classified as urban by the Bureau of the Census.
—At least 10 percent of the population or at least 5,000 persons live within the urbanized area of the central county.

- From 15 percent to 25 percent of the employed workers residing in the county commute to the central county or counties [2] and the county has a population density of at least 50 persons per square mile. In addition, the county meets at least two of the following conditions:

—The county has a population density of at least 60 persons per square mile.
—At least 35 percent of the population in the county is classified as urban by the Bureau of the Census.
—Between 1970 and 1980, the population must have increased by at least 20 percent.
—At least 10 percent of the population or at least 5,000 persons live within the urbanized area of the central county.

The determination as to whether a county qualifies for inclusion in an MSA is made based on data from the Bureau of the Census.

For purposes of payment under the prospective payment system, as required by section 1886(d)(8)(B) of the Act, we proposed that a hospital located in a rural county that qualifies under this provision would be deemed to be located in the MSA to which the greatest number of workers in the rural county commute. In addition, we proposed that the area wage indexes would be recomputed to reflect the reclassification of these counties as urban and, consequently, part of the urban wage area.

We noted that in determining whether a county meets the criteria for being designated an outlying county of an MSA that were published in the January 3, 1980 **Federal Register** notice (and summarized in this document, above), EOMB first determines the county's commuting rate to the central county or counties of individual MSAs and then determines, based on that rate, which additional criteria the county must meet for MSA status. Thus, for example, if a county's commuting rate is less than 15 percent to the central county or counties or the sum of the employed workers commuting from the outlying county to the central county or counties and the employed workers commuting from the central county or counties to the outlying county is less than 20 percent of the employed workers living in the outlying county, the county cannot qualify for MSA status under any criteria. If the commutation rate is from 15 percent to 25 percent and the population density is at least 50 persons per square mile, the county must meet at least two out of the following four additional criteria: a population density of at least 60 persons per square mile; at least 35 percent of the population classified as urban; 1970–1980 population growth of at least 20 percent; and a significant portion of the population lives within the urbanized area of the central county.

Since the purpose of amended section 1886(d)(8) of the Act is to recognize all other criteria for MSA designations except for the alternative commuting standard, we followed the EOMB and Bureau of the Census procedures for evaluating urban status. That is, we first determined which rural counties adjacent to one or more urban areas would meet the alternative standard specified in section 1886(d)(8)(B) of the Act, and then evaluated whether each of the counties that meet the alternative standard also meet the required additional criteria applicable to the rural county's level of commuting.

In the proposed rule at 53 FR 19512, we listed the counties that meet the standards established under section 1886(d)(8)(B) of the Act. The final list of these counties is set forth below following the comments and responses concerning this provision. Hospitals located in the counties on the list will be considered to be located in the specified adjacent urban area beginning October 1, 1988.

Section 1886(d)(8)(C) of the Act requires that the effect of this provision be budget neutral; that is, the statute requires that a proportional adjustment to the standardized amount for urban hospitals would be made to ensure that total aggregate payments made in the

[2] Also accepted as meeting this commuting requirement are:

(a) The number of persons working in the county who live in the central county(ies) is equal to at least 15 percent of the number of employed workers living in the county; or

(b) The sum of the number of workers commuting to and from the central county(ies) is equal to at least 20 percent of the number of employed workers living in the county.

prospective payment system would be neither greater nor less than aggregate payments that would otherwise be made. In addition, section 1886(d)(8)(C) of the Act requires that aggregate payments to those rural hospitals not affected by this provision remain constant. Thus, appropriate adjustments to the standardized amounts set forth in Tables 1a, 1b, and 1c in section IV of the addendum to the proposed rule were made to reflect the budget neutrality requirement.

In the conference report that accompanied Pub. L. 100–203, Congress specified "that the effect of this provision shall be limited to the treatment, for payment purposes, of the hospitals located in qualifying rural counties; the boundaries and population size of the adjacent urban areas shall not be altered." (H.R. Rep. No. 495, 100th Cong., 1st Sess. 532 (1987).) Accordingly, even though a hospital located in a qualifying rural county would be deemed a part of an adjacent MSA for payment purposes, we did not propose to include the population of that county in the MSA for purposes of determining whether the MSA is a large urban area (that is, an MSA with a population of at least 1,000,000 or an NECMA with a population of at least 970,000).

As noted above, other than those exceptions required by law, we have made only one exception to the strict use of MSA and NECMA definitions in identifying urban areas. Under current § 412.63(b)(3), a hospital classified as rural is deemed to be urban and receives the urban Federal payment amount if the county in which it is located meets the following criteria:

- At least 95 percent of the perimeter of the rural county is contiguous with urban counties.
- The county was reclassified from an urban area to a rural area after April 20, 1983.
- At least 15 percent of employed workers in the county commute to the central county of one of the adjacent MSAs or NECMAs.

This provision was added to the regulations by the September 3, 1986 final rule (51 FR 31469) under the Secretary's authority pursuant to section 1886(d)(5)(C)(iii) of the Act "* * * to provide by regulation for such other exceptions and adjustments * * * as the Secretary deems appropriate * * *"

Since implementation of this exception, only one hospital in one county (Shiawassee, MI) has qualified under this provision. Because this hospital would be deemed to be in an urban area under the new statutory requirements in section 1886(d)(8)(B) of the Act, we believe there is no reason to retain our special exception as set forth in current § 412.63(b)(3). Therefore, we proposed to eliminate that provision under the Secretary's authority in section 1886(d)(5)(C)(iii) of the Act "* * * to provide by regulation for such other exceptions and adjustments * * * as the Secretary deems appropriate * * *" because it has been effectively included in a statutory requirement.

Comment: Three commenters challenged our interpretation of the language included in section 1886(d)(8)(B) of the Act, as enacted by section 4005(a)(1)(D) of Pub. L. 100–203 that established the criteria for considering hospitals located in certain rural counties as located in urban areas. One commenter stated that in determining the commutation rate to the rural county from the adjacent MSAs, all counties in the MSA should be considered since the language in the law did not specify central counties only. Two commenters stated that since the law specified a 15 percent commuting criteria, this percentage replaces all other commuting standards established by EOMB.

Response: We agree that a literal reading of section 1886(d)(8)(B) of the Act as initially enacted could permit these interpretations. However, section 411(b)(4) of Pub. L. 100–360, which was enacted on July 1, 1988, included a technical amendment to section 1886(d)(8)(B) of the Act, which had been added by section 4005(a)(1)(D) of Pub. L. 100–203. The language concerning the specific commuting criteria was replaced by the following: "the rural county would otherwise be considered part of an urban area, under the standards for designating Metropolitan Statistical Areas (and for designating New England County Metropolitan Areas) published in the **Federal Register** on January 3, 1980, 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 Metropolitan Statistical Areas (or New England County Metropolitan Areas)."

Therefore, our application of EOMB standards is consistent with the law, which requires that we consider aggregate commuting to (and, if applicable, from) the central county or counties of all adjacent MSAs when applying EOMB standards for inclusion of a county in an MSA (or NECMA) as an outlying county.

We are revising § 412.63(b)(3) to reflect the revised language in section 1886(d)(8)(B) of the Act as amended by section 411(b)(4) of Pub. L. 100–360.

Comment: Two commenters objected to the fact that we used commuting percentages based on 1980 census data in determining whether a rural county would qualify for urban status. These commenters suggested that since these data do not reflect current commuting patterns, a special census should be performed on a county-specific basis to provide updated commuting data.

Response: The Congress intended in section 1886(d)(8)(B) of the Act as amended by section 411(b)(4) of Pub. L. 100–360 to revise, for purposes of determining prospective payments to hospitals, the way EOMB standards are applied for identifying outlying counties by allowing consideration of aggregate commuting rates to and from the central counties of all adjacent MSAs in applying those standards. This is the only modification to EOMB's standards and the application of those standards that was intended by this provision. Indeed, the amendment to section 1886(d)(8)(B) of the Act contained in section 411(b)(4) of Pub. L. 100–360 specifies the use of EOMB standards as published January 3, 1980. These standards were developed specifically for the purpose of designating and defining MSAs following the 1980 Census.

Therefore, since EOMB uses commuting data from the 1980 census in identifying those counties that currently qualify as outlying counties of MSAs, it would not be appropriate to use a different set of data in determining which counties would also qualify as outlying counties under this provision. The decennial census data EOMB uses to identify outlying counties are not updated between censuses but are used for the entire ten-year period until data obtained from the next census are computed. Therefore, until the future census data (that is, the 1990 census data) become available, we will continue to use the same 1980 census data used by EOMB.

Similarly, in determining the total commuting percentage for a county, we rounded the number to two decimal places to determine which commuting category would apply to the county. For example, a county with total commuting to adjacent MSAs of 39.99 percent would fall into the 25 percent to 40 percent commuting category. This number (39.99 percent) would not be rounded up to 40 percent. This is consistent with the rounding policy used by EOMB in making its MSA determinations.

Comment: We received many comments specifically requesting reclassification of certain rural counties that we had not identified as qualifying counties under our proposed rule. Generally, these commenters believe their counties qualified for urban status under section 1886(d)(8)(B) of the Act and requested reclassification as qualifying counties for urban status.

Response: While we are not addressing each specific comment separately in this final rule, we have reviewed all the relevant census data for the counties named in the comments to determine whether they qualify for urban status. The final list of qualifying counties is set forth below.

We have performed an extensive review of the census data for all rural counties adjacent to MSAs and believe that all qualifying counties have been identified. A hospital located in a qualifying county listed in this final rule will begin receiving payment at the urban rate beginning with discharges on October 1, 1988. In Table 4, the counties are listed as part of the labor market area comprising the MSA to which the greatest number of workers commute.

We are notifying each commenter directly with an explanation of why the county the commenter was seeking to have included in this provision has not been included in the list of qualifying counties.

Comment: We received a comment from a hospital located in Fredericksburg, Virginia, which is an independent city and not part of a county and which the commenter believes should be included in our list of qualifying areas. The commenter points out that under EOMB standards, an independent city located in Virginia is regarded as being included in the county from which it was originally formed. Since Fredericksburg was originally formed from Spotsylvania County, which qualifies under the criteria in section 1886(d)(8)(B) of the Act, Fredericksburg should also qualify.

Response: We agree with the commenter and are treating hospitals in Fredericksburg City as being located in Washington, DC–MD–VA MSA. We did consider Fredericksburg to be part of Spotsylvania County when the proposed list of qualifying counties was developed, although we did not specifically include it on the list. In order to clarify this issue, we have added Fredericksburg City to the list of qualifying counties. We note that the addition of Decatur, AL as an urban area effective on March 14, 1988 has led to the inclusion of Limestone County, AL to our list of qualifying counties. The following is the final list of counties that qualify under section 1886(d)(8)(B) of the Act.

Rural county	MSA
Limestone, AL	Decatur, AL.
Marshall, AL	Huntsville, AL.
Charlotte, FL	Sarasota, FL.
Indian River, FL	Fort Pierce, FL.
Christian, IL	Springfield, IL.
Macoupin, IL	St. Louis, MO–IL.
Mason, IL	Peoria, IL.
Clinton, IN	Lafayette, IN.
Henry, IN	Anderson, IN.
Owen, IN	Bloomington, IN.
Jefferson, KS	Topeka, KS.
Allegan, MI	Grand Rapids, MI.
Barry, MI	Battle Creek, MI.
Cass, MI	Benton Harbor, MI.
Ionia, MI	Lansing-East Lansing, MI.
Lenawee, MI	Ann Arbor, MI.
Shiawassee, MI	Flint, MI.
Tuscola, MI	Saginaw-Bay City-Midland, MI.
Van Buren, MI	Kalamazoo, MI.
Clinton, MO	Kansas City, KS–MO.
Cass, NE	Omaha, NE.
Caswell, NC	Danville, VA.
Currituck, NC	Norfolk-Virginia Beach-Newport News, VA.
Harnett, NC	Fayetteville, NC.
Genesee, NY	Rochester, NY.
Columbiana, OH	Beaver County, PA.
Morrow, OH	Mansfield, OH.
Preble, OH	Dayton-Springfield, OH.
Van Wert, OH	Lima, OH.
Lawrence, PA	Beaver County, PA.
Cherokee, SC	Greenville-Spartanburg, SC.
Bedford, VA	Roanoke, VA.
Fredericksburg City, VA.	Washington, DC–MD–VA.
Isle of Wight, VA	Norfolk-Virginia Beach-Newport News, VA.
Spotsylvania, VA	Washington, DC–MD–VA.
Jefferson, WI	Milwaukee, WI.
Walworth, WI	Milwaukee, WI.
Jefferson, WV	Washington, DC–MD–VA.
Lincoln, WV	Charleston, WV.

Comment: We received comments suggesting alternatives whereby a rural hospital could be reclassified as urban and that the Secretary use the general exceptions authority provided under section 1886(d)(5)(C) of the Act to adopt these alternative criteria.

Response: Under section 411(b)(4)(A) of the recently enacted Medicare Catastrophic Act of 1988 (Pub. L. 100–360) Congress amended section 1886(d)(8)(B) of the Act to ensure its intended narrow applicability by specifying that a county must meet all other standards for designating MSAs and that the only variance from the established standards is the inclusion of commuting "to (and if applicable under the standards, from) the central county or counties of all contiguous Metropolitan Statistical Areas."

We believe that the statutory language cited above underscores Congress' acceptance of the MSA standards and precludes us from relaxing those standards to enable more hospitals to benefit from urban designation. Since Congress has already explicitly decided the manner in which certain hospitals would be reclassified as urban for purposes of the prospective payment system, we believe that the use of our exceptions authority to modify those criteria on a case-by-case basis would contradict the intent of Congress in enacting this provision.

3. Multicampus Hospitals

Some hospitals receiving payment under the prospective payment system are multicampus hospitals; that is, they consist of two or more separately located inpatient hospital facilities. We had received inquiries concerning how we determine the prospective payment rate for these hospitals when the various individual hospital facilities are located in areas with different prospective payment rates or wage indexes.

Section 1886(d)(3)(D) of the Act, as amended by section 4002(c)(1)(D) of Pub. L. 100–203, provides that prospective payment rates are established "for hospitals located * * * in a large urban area or other urban area * * *" and "for hospitals located in a rural area * * *." That is, the prospective payment rate is based on the geographic location of the hospital at which the discharge occurs rather than on any other location, such as, for example, the location of the headquarters of the multicampus facility that owns and operates the various individual hospital facilities, or the location of the main hospital facility. Therefore, we proposed to amend § 412.63 to provide that a multicampus hospital that is participating in the Medicare program as a single provider must be paid prospective payment rates that are determined by the geographic location of each individual hospital facility within the multicampus hospital.

Comment: A few commenters expressed concern that our proposal to pay multicampus hospitals on the basis of the geographic location of each respective campus does not consider operational difficulties imposed by attempting to make payment on two separate bases to a hospital with a single Medicare billing number that files a single, fully combined cost report. The commenters expressed concern that our proposed policy is silent with respect to the calculation of the respective disproportionate share hospital adjustments, where such adjustments are applicable. Another comment noted that administering this policy may be costly.

Response: We recognize that this policy, as described in the proposed rule, presents difficulties in

implementation. Therefore, we are implementing this policy prospectively, with discharges occurring on or after October 1, 1988. With respect to the operational difficulties raised by the commenter, including the method for calculating disproportionate share payments, we are currently ascertaining the number of multiple-site providers. After this information has been obtained, we will develop a system to permit intermediaries to differentiate separate campuses of a hospital, and to pay each campus according to the applicable rate for its geographic area. We note that since section 1886(d)(5)(F) of the Act requires that hospitals be differentiated by urban or rural location, eligibility for disproportionate share payments, as well as the calculation of the payments, must be determined according to the urban or rural location of an individual hospital campus.

With respect to the additional costs of administering this policy, we believe that the program benefits resulting from hospitals being paid appropriately, and in particular according to the law as enacted, outweigh the costs inherent in administering this policy.

D. Establishment of a Regional Floor (§ 412.70)

Section 4002(d) of Pub. L. 100–203 amended section 1886(d)(1)(A)(iii) of the Act to establish a "regional floor" for the prospective payment rate applicable to a hospital. In accordance with this section, hospitals payments are based on the greater of the national average standardized amount or the sum of 85 percent of the national average standardized amount and 15 percent of the average standardized amount for the Census region in which they are located. This provision is effective for discharges occurring on or after April 1, 1988 and before October 1, 1990 and was described in the April 5, 1988 notice at 53 FR 11134.

In implementing this provision and determining which regions qualify for the regional floor, we compared the total of the labor-related and nonlabor-related portions of each standardized amount in each region with the total of the labor-related and nonlabor-related portions of the national standardized amount. In structuring the comparison in this way, we are following the explication of this provision contained in the Conference Committee Report accompanying Pub. L. 100–203 (H.R. Rep. No. 495, 100th Cong., 1st Sess. 525 (1987)), as well as the amendment to the provision contained in section 411(b)(1)(G) of Pub. L. 100–360.

Based on the updated payment rates published in the April 5, 1988 notice, we determined that for discharges occurring on or after April 1, 1988 and before October 1, 1988, rural hospitals in Census regions I, II, III, and IV and hospitals in large urban areas and other urban areas in Census regions I and IV will receive greater payments using the national/regional blend than the national average standardized amount. Therefore, for discharges occurring on or after April 1, 1988 and before October 1, 1988, the Federal portion of the payment for these hospitals is comprised of 85 percent of the national average standardized amount and 15 percent of the applicable regional average standardized amount rather than 100 percent of the national average standardized amount. We proposed to amend § 412.70 to implement the provisions of 1886(d)(1)(A)(iii) of the Act.

Based on the updated payment rates set forth in this final rule, we have determined that there is only one change to the areas for which the regional floor is applicable. Hospitals in large urban areas and other urban areas in region VI are affected by the regional floor. Therefore, for discharges occurring on or after October 1, 1988 and before October 1, 1989, rural hospitals in regions I, II, III, and IV and hospitals in large urban areas and other urban areas in regions I, IV, and VI will receive greater payments using the national/regional blend than the national average standardized amount. Thus, for discharges occurring on or after October 1, 1988 and before October 1, 1989, the Federal portion of the payment for these hospitals will be comprised of 85 percent of the national average standardized amount and 15 percent of the applicable regional average standardized amount rather than 100 percent of the national average standardized amount.

E. Payment for Outlier Cases (§§ 412.82 and 412.84)

Section 1886(d)(5)(A) of the Act requires that, in addition to the basic prospective payment rates, payments must be made to hospitals for atypical cases known as "outliers." These are cases that have either an extremely long length of stay or extraordinarily high costs when compared to the other discharges classified in the same DRG.

Section 1886(d)(5)(A)(iii) of the Act specifies that the outlier payments should approximate the marginal cost of care beyond the outlier threshold. In the September 1, 1983 interim final rule, we established the ratio of marginal cost to average cost at 60 percent (48 FR 39776).

For day outliers, an additional per diem payment is made for each covered day of care beyond the length of stay threshold. The per diem payment is equal to 60 percent of the average per diem Federal rate for the DRG, which is calculated by dividing the wage-adjusted Federal rate for the DRG by the geometric mean length of stay for the DRG. This amount is multiplied by the applicable Federal blend percentage. After the end of the transition period, the Federal portion is 100 percent of the payment rate except for sole community hospitals, which continue to receive payment equal to 75 percent of the hospital-specific portion and 25 percent of the Federal regional portion.

For cost outliers, the additional payment is equal to 60 percent of the difference between the hospital's charges for the discharge, adjusted to cost, and the cost threshold. We currently determine the cost of the discharge to be equal to 66 percent of the billed charges for covered services based on the average ratio of operating costs to charges for Medicare discharges nationwide. The resulting cost estimate is further adjusted to exclude an estimate of indirect medical education costs and payments to hospitals that serve a disproportionate share of low-income patients. As with day outliers, the resulting amount is then multiplied by the applicable Federal blend percentage.

Our analysis indicates that while our payment policy for outliers effectively reduces the risk faced by hospitals in treating cases that are outside the normal range of cases in terms of duration or costliness, additional compensation would be justified for the most expensive cases, particularly those long-stay cases with extremely high costs. On the other hand, some cases that currently qualify for additional payment as day outliers are not extraordinarily costly.

In the June 10, 1987 proposed rule (at 52 FR 22089), we proposed to make two changes to the outlier regulations in order to more appropriately compensate hospitals for outlier cases. First, we proposed that a marginal cost factor of 80 percent be applied to cost outlier cases. Thus, outlier payment for these cases would be equal to 80 percent of the difference between the adjusted charges for the case and the cost threshold. Second, we proposed that day outlier cases whose adjusted charges exceeded the cost threshold also be paid 80 percent of the difference between the adjusted charges for the case and the cost threshold.

In the September 1, 1987 final rule (52 FR 33048), we announced our decision to delay implementation of any changes to the outlier policy. While the evidence

showed that the proposed changes would increase the effectiveness of outlier payment and most commenters supported an outlier policy that pays a higher fraction of outlier payments for extremely costly cases, many were concerned about the impact of the proposed changes and recommended that changes in the outlier policy be delayed until further study could be completed.

Given these concerns, we decided to delay implementation of any changes to the outlier payment policy and to continue our research on the impacts of alternative outlier payment methodologies, including the use of a hospital-specific rather than a national cost-to-charge ratio in computing cost outlier payments.

In the May 27, 1988 proposed rule, we proposed the following changes to the outlier policy to be effective for discharges on or after October 1, 1988. We would amend §§ 412.82 and 412.84 and add a new § 412.86 to implement these changes.

1. Marginal Cost Factor for Cost Outliers

We proposed for discharges occurring on or after October 1, 1988, to pay cost outlier cases at a marginal cost factor of 80 percent of adjusted charges beyond the cost outlier threshold (except for burn outlier cases, which are being paid using a marginal cost factor of 90 percent for discharges occurring on or after April 1, 1988 and before October 1, 1989).

2. Higher of Day or Cost Outlier Payment

For the first five years of the prospective payment system, we have paid even the most expensive day outliers at a per diem amount that is based on the average payment for all discharges assigned to that DRG. For some of the cases that currently qualify as day outliers, the per diem rate paid does not adequately compensate the hospital for its marginal costs. This is especially true for exceptionally costly day outlier cases (which are not addressed by the day outlier payment methodology). In such cases, the daily costs beyond the length of stay threshold may vastly exceed the day outlier per diem amount, and that daily discrepancy is multiplied by each additional day of the stay.

Thus, for those day outlier cases that have adjusted charges exceeding the cost threshold, we proposed to make outlier payment equal to the greater of 60 percent of the per diem Federal rate for each day beyond the length of stay threshold or 80 percent of the difference between adjusted charges and the cost threshold.

3. Hospital Specific Cost-to-Charge Ratios

We proposed to use hospital-specific cost-to-charge ratios to adjust charges for the purpose of computing cost outlier payments. The use of hospital-specific cost-to-charge ratios should greatly enhance the accuracy with which outlier cases are identified and outlier payments are computed, since there is wide variation among hospitals in these cost-to-charge ratios. The increased emphasis on cost in computing outlier payments heightens the need to use reasonably reliable factors to estimate costs from charges. Therefore, we believe the use of hospital-specific cost-to-charge ratios is essential to ensure that outlier payments are made for cases that have extraordinarily high costs, and not merely high charges.

We proposed that the intermediary would compute a cost-to-charge ratio for each hospital using cost data from the hospital's latest settled cost report and charge data for discharges during the same period from the billing file maintained by the intermediary. The intermediary would compute the hospital-specific cost-to-charge ratios based on the ratio that follows:

$$\frac{\text{Medicare Inpatient Operating Costs (from cost report)}}{\text{Medicare Covered Charges (from billing file)}}$$

For hospitals that have not yet filed their first Medicare cost report with their fiscal intermediary or for which the intermediary is unable to compute a reasonable cost-to-charge ratio, we computed statewide average cost-to-charge ratios for urban hospitals and for rural hospitals, which appear in Table 8 of section IV of the addendum to this final rule. We proposed that these average ratios would be used to calculate cost outlier payments for those hospitals for which the intermediary computes cost-to-charge ratios lower than 0.36 or greater than 1.24. 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 believe that ratios falling outside this range are unreasonable, in that they are probably due to faulty data reporting or entry, and should not be used to identify and pay for cost outliers.

We proposed that hospital-specific cost-to-charge ratios would be computed annually before the beginning of each Federal fiscal year, based on each hospital's latest settled cost report. The intermediary would enter the appropriate ratio for each hospital into the Pricer program used by the intermediary to calculate payments and this ratio would be used for discharges occurring during that Federal fiscal year.

We proposed to continue our policy that outlier payments would be final and not subject to recalculation based on later data that would affect the hospital specific cost-to-charge ratios, indirect medical education adjustment factors, or disproportionate share adjustment factors. This policy was first set forth in the September 1, 1983 final rule (48 FR 39779) and at that time codified at § 405.454(m)(5). This section was subsequently redesignated as § 413.64(k)(1)(ii) in a final rule with comment period published on September 30, 1986 (51 FR 34790). However, in a final rule with comment period published on January 21, 1988 (53 FR 1621), when this section was further redesignated as § 412.116(e), we inadvertently deleted from that section the sentence that specified that outlier payments are based on submitted bills and represent final payment. As a part of the proposed rule, we corrected that paragraph to include the deleted sentence.

4. Outlier Thresholds and Size of the Outlier Pool

As explained above, section 1886(d)(5)(A) of the Act requires that, in addition to the basic prospective payment rates, payments must be made for discharges involving day outliers and may be made for cost outliers. Section 1886(d)(3)(B) of the Act correspondingly requires that the standardized amounts be reduced by the proportion of estimated total DRG payments attributable to estimated outlier payments. Furthermore, section 1886(d)(5)(A)(iv) of the Act directs that outlier payments may not be less than five percent nor more than six percent of total payments projected to be made based on the prospective payment rates in any year.

In the September 1, 1987 final rule, we set the outlier thresholds so as to result in estimated outlier payments equal to 5.0 percent of total prospective payments (that is, estimated outlier payments plus regular prospective payments per discharge, excluding indirect medical education payments and disproportionate share hospital payments) for FY 1988 (52 FR 33065). These same thresholds were estimated to result in outlier payments of 5.1 percent of total DRG payments based on the rates as updated for discharges occurring on or after April 1, 1988 and

adjusted to reflect the use of a 90 percent marginal cost factor for burn-related outliers. The urban and rural outlier offsets averaged out to produce this 5.1 percent outlier "pool".

Section 1886(d)(3)(B) of the Act requires that, effective with discharges occurring on or after October 1, 1986, each national and regional standardized amount be reduced for hospitals located in urban areas and for hospitals located in rural areas based on the estimated proportion of total DRG payments attributable to outlier payments for hospitals in urban areas and for hospitals in rural areas, respectively. Consequently, instead of the uniform five percent reduction factor applying equally to all the standardized amounts, there are now two separate reduction factors, one applicable to the urban national and regional standardized amounts and the other applicable to the rural national and regional standardized amounts. Rates for urban hospitals, which are projected to receive outlier payments in excess of five percent of total DRG payments, are reduced by that larger percentage (instead of by five percent). Rates for rural hospitals, which are projected to receive outlier payments of less than five percent of total DRG payments, are reduced by that lower percentage (instead of by five percent).

Under section 1886(d)(5)(A)(iv) of the Act, we proposed to set the outlier thresholds for FY 1989 so as to result in estimated outlier payments equal to five percent of total prospective payments. In our proposed rule of May 27, 1988, we stated that this would require that the day outlier threshold be set at the lesser of 24 days or 3.0 standard deviations beyond the geometric mean length of stay for the DRG and the cost outlier threshold at the greater of 2.0 times the prospective payment rate for the DRG or $27,000.

ProPAC recommended that thresholds be adjusted so that 40 to 50 percent of outlier payments would be paid according to the cost outlier methodology. (The previous payment split was approximately 85 percent to day outliers and 15 percent to cost outliers.) Under the proposed thresholds, 60 percent of outlier payments would be made according to the cost outlier methodology. This shift is consistent, however, with ProPAC's recommendation that there be greater emphasis on cost rather than length of stay as a criterion for paying for outliers, and is also reflective of an 80 percent marginal cost factor for cost outliers, rather than the 60 percent factor presumed by ProPAC. Also, in view of the fact that, compared to current thresholds, the increase in the proposed cost threshold is significantly greater than the increase in the proposed day threshold, we decided not to raise the cost threshold further, as would have been necessary to hold the proportion of outlier payments made on the basis of the cost methodology to 50 percent.

Moreover, since we proposed to pay day outliers exceeding the cost threshold on the basis of the methodology that generates the higher payment, much of the 60 percent of payments that would be made according to the cost outlier methodology is accounted for by day outlier cases that would actually receive more payment under the proposed policy than they would under the current policy. Our estimate is that 85 percent of outlier payments under the proposed policy would be generated by day outlier cases.

Since the proposed policy would result in higher payment for many outlier cases (those for which payments using the cost outlier methodology are higher than payments using the day outlier methodology), it requires that the thresholds be increased.

The substantial increases in both the day and the cost outlier thresholds stem not only from the combined effects of all the proposed changes to outlier payment policy set forth above, but also from continued slight increases in the Medicare length of stay and hospital charge increases in excess of the increase in the hospital market basket.

ProPAC agrees with us that the outlier payment policy should be refined to better protect hospitals from the risk of extremely costly cases (Recommendation 18). Our proposed changes are also consistent with ProPAC's recommendations to pay day outliers exceeding the cost threshold on the basis of the greater of the day or the cost outlier amounts and to utilize hospital-specific cost-to-charge ratios for identifying and paying cost outliers.

We did not, however, propose to adopt ProPAC's recommendation to increase the outlier pool from five percent to the maximum six percent allowed under the law. We stated our belief that it is desirable to maintain the outlier pool at a level below the maximum permissible by law at this time, because it allows proportionately greater payment for typical cases. Furthermore, our research shows only a marginal reduction in risk associated with moving to a six-percent outlier pool. We specifically requested comments on the appropriate size of the outlier pool.

We note that ProPAC also recommended that a corrective adjustment be made if outlier payments in a year are different from the amount financed by the offsets to the urban and rural rates. Although the data indicate that outlier payments fell short of the estimates in the first years of the prospective payment system, this situation seems to have reversed in recent years. In light of our estimate in the May 27, 1988 **Federal Register** that outlier payments in FY 1988 would be about 5.5 percent of total prospective payments, as compared to a 5.1 percent outlier pool, adopting this recommendation would have resulted in a 0.4 percent reduction to the standardized amounts. Since the update factor applied to the standardized amounts is prescribed by law, we have no authority to make such an adjustment.

5. Differential Urban and Rural Thresholds

Under current policy, the same outlier thresholds are applicable to urban and rural hospitals. Since rural hospitals generally have less complex and costly cases, they have fewer outlier cases. Presently, only approximately 2.5 percent of payments to rural hospitals are additional payments for outlier cases. Although rural hospitals have a smaller outlier pool (and proportionately higher payments for typical cases), this means that, as a proportion of total prospective payments, they receive less outlier protection than do urban hospitals. At the same time, rural hospitals have fewer inpatient cases and, as a result, are more vulnerable to large losses on individual cases. Moreover, an expensive outlier case has a greater financial effect on a small rural hospital than on the average urban hospital.

In order to provide additional outlier protection to rural hospitals, we considered establishing lower thresholds for rural hospitals than for urban hospitals. Although we decided not to propose this change, we specifically requested comments on the appropriateness of replacing the current combination of uniform thresholds and differential urban and rural outlier offsets with a policy of uniform offsets and differential thresholds for hospitals paid the urban rate and hospitals paid the rural rate. Such a policy would, in order to comport with statutory constraints, require an increase in the proportion of payments to rural hospitals attributable to outlier payments, a corresponding reduction in the rural standardized amounts, and

lower thresholds for hospitals paid the rural rate so as to identify and pay for more outlier cases in rural hospitals.

6. Burn Outliers

In the April 5, 1988 notice (53 FR 11137), we discussed the provisions of section 4008(d)(1)(A) of Pub. L. 100–203, which changed the marginal cost factor from 60 percent to 90 percent for both day and cost outliers in DRGs related to burn cases. These provisions are effective for discharges occurring on or after April 1, 1988 and before October 1, 1989 for outlier cases classified in the six DRGs relating specifically to burn cases:

DRG	Name
456	Burns, Transferred to Another Acute Care Facility.
457	Extensive Burns without OR Procedure.
458	Non-Extensive Burns with Skin Graft.
459	Non-Extensive Burns with Wound Debridement or Other OR Procedure.
460	Non-Extensive Burns without OR Procedure.
472	Extensive Burns with OR Procedure.

As part of the May 27, 1988 proposed rule, we proposed to amend §§ 412.82 and 412.84 to implement the provisions of section 4008(d)(1) of Pub. L. 100–203.

ProPAC supported the intent of section 4008(d) of Pub. L. 100–203, which temporarily increases outlier payments for burn DRGs. However, ProPAC's preliminary analysis indicated that the increase in outlier payments is appropriate only for those cases treated in specialized burn centers and units. ProPAC has examined this topic further and submitted its report and recommendations to Congress in July 1988, and to the Secretary (as part of ProPAC's comments on the May 27, 1988 proposed rule) as required by section 4008(d)(2)(B) of Pub. L. 100–203.

While we recognize ProPAC's concern that outlier cases result in a more serious impact to specialized burn centers and units than to general hospitals treating burn cases, we generally do not believe it appropriate to create a new class of hospital (that is, burn hospitals and burn units) simply for the purpose of targeting outlier payments.

We are currently in the process of reviewing ProPAC's report and recommendations to determine if any changes in the burn outlier policy may be appropriate for FY 1990. We will comment in greater detail on ProPAC's report and recommendations once our analysis has been completed. However, we believe that our proposed changes in outlier policies would serve to improve payments for burn outliers. Within the context of the prospective payment system, we generally believe that solutions to problems should be found on a systematic basis, rather than through making special adjustments for individual cases or small groups of cases.

Comment: Several commenters suggested that the size of the outlier payment pool be increased from five percent to the legal maximum of six percent in order to finance a reduction in the outlier thresholds. Other commenters recommended that we maintain the five percent pool.

Response: Increasing the size of the outlier pool to six percent in order to reduce the outlier thresholds would increase the number of outlier cases, but it would also proportionately reduce the basic payment for all cases. Moreover, as noted above, our research has indicated that increasing the outlier pool to six percent would produce only a marginal decrease in the risk faced by hospitals under the prospective payment system. In light of the numerous outlier policy changes that we are already making, we believe that it is desirable at this time to maintain a smaller outlier pool than the maximum six percent because it allows proportionately greater payment for typical cases.

We note that some commenters, while in favor of an increase in the outlier pool, wanted this to be accomplished with no corresponding additional offsets to the rates. This would represent the addition of program funds to the prospective payment system above and beyond the update factor and, because it would violate the constraint that outlier thresholds be set so as to ensure equality between outlier offsets and estimated outlier payments, is not permitted under the law. The law requires that outlier payments be financed out of the total payments made under the prospective payment system. Thus, any increase in the amount of outlier payments can only be accomplished at the expense of funds available for typical cases.

Based on the most recent MEDPAR data, we now estimate that the outlier thresholds proposed on May 27, 1988 and which we are finalizing in this document would require an outlier pool equal to 5.4 percent of total payments under the prospective payment system (rather than the 5.0 percent estimated in the May 27, 1988 proposed rule). To maintain the 5.0 percent outlier pool and all other features of the outlier policy as proposed would require further increasing the outlier thresholds to the mean length of stay for the DRG plus 25 days or 3.0 standard deviations for day outliers and $29,000 or twice the Federal rate for cost outliers. Therefore, in light of commenters' concerns with the increase in the outlier thresholds and the desirability of financing a reduction in the thresholds with an increase in the pool, we have modified the final outlier payment policy in two ways. First, we have decided to revise the marginal cost factor for cost outlier cases to 75 percent rather than the 80 percent proposed. While this marginal cost factor represents a slight reduction in the protection afforded to the most expensive outlier cases, we anticipate that it will still substantially reduce the risk faced by hospitals from extremely costly cases. The second change we have made in the final outlier policy is to maintain the outlier pool at 5.1 percent rather than reduce it to 5.0 percent, as proposed. With these changes, together with all other features of the proposed outlier policy and the more recent MEDPAR data, there will be a slight increase in the outlier thresholds relative to those proposed. While the day outlier threshold remains the same as that proposed (that is, the geometric mean length of stay for each DRG plus the lesser of 24 days or 3.0 standard deviations), it was necessary to increase the cost threshold to the greater of twice the Federal rate for each DRG or $28,000 (instead of $27,000 as proposed).

Comment: A number of commenters stated that the estimated outlier payment split of 60 percent according to the cost outlier methodology and 40 percent according to the day outlier methodology was too abrupt a change from the previous payment split of 15 percent for cost outliers and 85 percent for day outliers. These commenters generally agreed with ProPAC's recommendation that there be gradual movement from the current payment split to a share of between 40 to 50 percent for cost outliers.

Response: The 60 percent cost and 40 percent day outlier split discussed in the proposed rule is based on the methodology used to pay the outlier cases, not on the qualifying criteria. While under the revised policy more cases may be paid using the cost outlier methodology because it yields the higher payment, our simulation of FY 1989 outlier payments based on the FY 1987 MEDPAR data indicates that the percentage of cases that qualify as day outliers is about 83 percent. Those cases are expected to receive over 85 percent of outlier payments in FY 1989. An estimated 17 percent of outlier cases are cost outlier cases, and these cases are expected to receive about 15 percent of

outlier payments. The following table illustrates this finding in greater detail:

Type of outlier case	Percentage of outlier cases	Percentage of outlier payments
Meets day threshold only	57.0	27.4
Meets day and cost thresholds, paid using day methodology	10.6	18.4
Meets day and cost thresholds, paid using cost methodology	15.0	39.6
Subtotal—All cases meeting day threshold	82.6	85.4
Meets cost threshold only	17.4	14.6
Total	100.0	100.0

When the FY 1988 outlier thresholds were established, it was estimated that about 85 percent of payments would be made for day outliers and about 15 percent for cost outliers. Our most recent estimates suggest that day outliers account for 80 percent of FY 1988 outlier payments and cost outliers for 20 percent. Accordingly, as illustrated above, the percentage of payments for day outliers under the revised outlier policy will increase relative to that under the policy in effect in FY 1988. More significantly, the final outlier policy adjusts the payment methodology for day outlier cases to ensure that high cost day outliers are paid more appropriately.

Comment: Several commenters expressed concern that the large increase in both the day and cost outlier thresholds would eliminate payment for many cases that are currently paid as outliers.

Response: As we stated in the proposed rule (at 53 FR 19515) and have reconfirmed based on the most recent MEDPAR data, the increase in the outlier thresholds stems partly from both a continuation of the slight increases in Medicare length of stay and the large increases in hospital charges. Thus, even with no change in outlier payment policy, there would have been an increase in the outlier thresholds.

Moreover, while it is true that the number of cases for which outlier payments are made will decrease because of the increase in outlier thresholds, we believe that this policy more accurately reflects the Congressional intent for outlier payments—to protect against extreme losses imposed by exceptionally costly cases under the prospective payment system. Research conducted by the RAND Corporation and by the Congressional Research Service indicates that under the policy in effect during the first five years of the prospective payment system, a substantial proportion of outlier payments has been made for cases that, even with no outlier policy, would not have resulted in extreme losses to the hospital. The changes in the outlier policy represent an attempt to focus more outlier payments on the cases that impose extreme losses. To accomplish that objective within the context of a fixed outlier payment pool requires that fewer cases receive outlier payment. The result, however, is that the overall risk faced by hospitals under the prospective payment system is reduced, because they are less vulnerable to the most extreme occurrences.

It should be pointed out that the objective of outlier payment is *not* to insure hospitals against losses on any given case. Under the prospective payment system, it is assumed that a certain proportion of cases at any hospital will have costs that are greater than the payment received, but that these deficits will, on average, be counterbalanced by many other cases for which payments are in excess of costs. Outlier payments were incorporated into the prospective payment system in recognition of the fact that for some extremely costly cases the payment deficit might not be counterbalanced by the payment surplus on other cases treated in that year, which could impose short-term financial hardship on a hospital. We believe that the revised outlier policy addresses this objective more effectively than does the current policy.

Comment: Several commenters pointed out that, due to a shortage of skilled nursing beds in some areas, hospitals in those areas tend to have more day outliers. Increased emphasis on cost outliers would put these hospitals at a disadvantage due to factors beyond their control.

Response: We have been aware of this problem for some time. Research conducted by the Urban Institute indicates that the frequency of day outliers is significantly related to the availability of skilled nursing beds and other factors related to the availability of other sources of care in the hospital's market area. However, the increased emphasis on costs in determining outlier payments has not eliminated day outliers by any means. We expect that over 27 percent of outlier payments under the new policy will be for day outliers that do not exceed the cost outlier threshold. Approximately 18 percent will be "dual" outliers (exceeding both the day and cost thresholds) that receive higher payment under the day outlier formula than under the cost outlier formula. An additional 40 percent will be dual outliers that under this new policy will receive higher payment under the cost outlier formula—thus receiving more payment than they would have under the old policy. Thus, the increased emphasis on costs only shifts payment from the least expensive day outliers to the most expensive day outliers.

We recognize that many of the cases affected by local shortages of skilled nursing beds are among these least expensive day outlier cases. The difficulty in addressing the problem presented by these cases is that there is no reliable way of distinguishing between them and other cases that have similar costs and lengths of stay but are not affected by skilled nursing bed shortages under either the final outlier policy for FY 1989 or the previous policy. We will continue our investigation into this issue.

Comment: Two commenters stated that separate outlier thresholds should be established for hospitals in Puerto Rico because of their lower costs. These lower costs will, in effect, prevent Puerto Rico hospitals from qualifying for cost outlier payments, since the cost outlier thresholds are set at a high level that is reflective of the cost experience of mainland hospitals located outside of Puerto Rico.

Response: Section 1886(d)(9)(D) of the Act (added by section 9304 of Pub. L. 99-509) specifies that certain provisions (including outlier payments) applicable to subsection (d) hospitals "shall apply to subsection (d) Puerto Rico hospitals * * * in the same manner and to the extent as they apply to subsection (d) hospitals * * *." In view of this requirement, we use the same day and cost outlier thresholds for Puerto Rico hospitals as for all other subsection (d) hospitals.

In determining whether a case qualifies as a cost outlier, the threshold amount is adjusted by the hospital's wage index value. This has the effect of taking into account the general cost environment in which the hospital operates. While the commenters stated that the amount of even the wage-adjusted threshold will prevent Puerto Rico from qualifying for many cost outliers, this situation, to the extent that it occurs, may be similar to the situation of many other hospitals.

There are also differences in hospitals' costs among different regions located outside of Puerto Rico, but different outlier thresholds have never been provided in recognition of these

differences. Also, under the outlier policy, cases may still qualify as day outliers and be paid accordingly. In those situations in which a case qualifies as both a day and a cost outlier, the higher outlier amount will be paid, just as it is for hospitals not located in Puerto Rico.

In addition to outliers, Congress also incorporated in the prospective payment system as it applies to Puerto Rico other features that are identical to the features applicable to the prospective payment system outside of Puerto Rico. Some of these features may work to the advantage of Puerto Rico hospitals. For example, Congress provided that Puerto Rico hospitals will be entitled to additional payments for the indirect costs of medical education and as disproportionate share hospitals, even though the formulas for computing these adjustments would be different (and perhaps result in lower adjustments) if they were based solely on data and circumstances relevant to hospitals in Puerto Rico.

Comment: Several commenters suggested that the marginal cost factor for cost outliers be maintained at the current 60 percent, rather than increased to the proposed 80 percent, in order to finance a reduction in the thresholds. One commenter recommended a marginal cost factor of 100 percent.

Response: The purpose of the proposed increase in the marginal cost factor is to focus more outlier payments on the most costly cases. Research conducted by the RAND Corporation and by ProPAC demonstrated that the discrepancy between costs and payments is substantially larger for cost outliers than for day outliers. We take this as an indication that the marginal cost factor for these cases should be greater than the current 60 percent figure.

The retention of the 60 percent marginal cost factor for cost outliers in order to finance a reduction in the proposed thresholds would result in less payment for the most costly cases and more payment for cases that are not as costly and do not present as much of a risk to hospitals. We believe that this would be contrary to our objective of improving the efficiency with which the outlier payment methodology addresses the risk faced by hospitals under the prospective payment system. On the other hand, there is no analytic basis for equating marginal cost with average cost, which is what a 100-percent marginal cost factor would do. We have, however, as noted above, increased the marginal cost factor to 75 percent instead of the proposed 80 percent. We believe this change will both reduce the risk associated with the most costly cases and avoid significant increases in the thresholds above those proposed.

Comment: One commenter recommended the retention of a national average cost-to-charge ratio for computing cost outliers.

Response: As explained in the proposed rule (53 FR 19514), the use of hospital-specific cost-to-charge ratios should greatly enhance the accuracy with which exceptionally costly outlier cases are identified and outlier payments are computed, given the wide variation among hospitals in their cost-to-charge ratios. Moreover, preliminary research suggests that, in general, the types of hospitals that have high profits per case under the basic prospective payment rates tend to have lower cost-to-charge ratios than the types of hospitals that have lower profits under the basic rates. This means that use of national cost-to-charge ratios to compute cost outlier payments results in a transfer of payments to hospitals that are doing well from hospitals that are doing less well. To the extent that a hospital's financial performance is related to the incidence of outliers, the use of a national cost-to-charge ratio would produce results counter to those we wish to achieve by modifying outlier policy.

One of the major criticisms of the outlier policy we proposed for FY 1988 (52 FR 22089) was its emphasis on the cost outlier methodology in conjunction with the use of a national cost-to-charge ratio. We agreed with the commenters at that time that a national cost-to-charge ratio was inappropriate in an outlier policy that attempted to target outlier payments to the most costly cases and, for that reason, decided to defer adoption of the proposed policy.

Comment: A number of commenters expressed concern about the timeliness of the data we are using to compute the hospital-specific cost-to-charge ratios. Because the latest settled cost reports may be as much as three years old, commenters were concerned that there could be significant fluctuations in the ratios and that the data would not reflect current cost-to-charge ratios. Some commenters suggested that we use the latest filed cost report and others stated that we should update the ratios more than once a year.

Response: We believe that the hospital-specific cost-to-charge ratios should be developed using the most current and accurate data available. While the latest filed cost report represents the most current data, we have found that Medicare costs are generally overstated on the filed cost report and are subsequently reduced as a result of audit. Therefore, we believe the latest settled cost report represents the most accurate available data for computing the hospital-specific cost-to-charge ratios.

We do, however, believe that as cost reports are settled by the intermediaries, it would be appropriate to recompute the cost-to-charge ratio to ensure that the ratios used to calculate cost outlier payments are as up to date as possible. Therefore, we are instructing the intermediaries to update the hospital-specific cost-to-charge ratios effective with discharges 30 days after the date the Notice of Amount of Program Reimbursement (NPR) is issued for the latest cost reporting period. Similarly, when a revised NPR is issued as a result of a final determination on an appeal and the revised NPR affects costs or charges or both that are used in computing the hospital-specific cost-to-charge ratio, then that ratio may be updated after the 30-day delay discussed above. We note that if the revised ratio is lower than the one currently in effect, it will still be implemented after the 30-day delay.

Our data indicate that charges have been increasing at a faster rate than costs. This is evidenced by the national cost-to-charge ratio which has declined from 72 percent at the beginning of the implementation of the prospective payment system to the current ratio of 66 percent (which was based on cost data from the first year of operation of the prospective payment system). In addition, our analysis of cost reports from the second year of operation of the prospective payment system indicates that the national cost-to-charge ratio has dropped further, to 64 percent. Therefore, we do not believe that hospitals will be disadvantaged by using data from the latest settled cost report rather than from a more recent as filed cost report data to compute hospital-specific cost-to-charge ratios.

Comment: One commenter objected to the parameters that we established for reasonable hospital-specific cost-to-charge ratios. The commenter stated that it was inequitable because if one hospital had a ratio that falls just above the lower parameter of 0.36, we would use that ratio, while, if another hospital has a ratio just below the parameter (for example, 0.35), it would receive the sometimes substantially higher statewide ratio.

Response: The range of reasonable cost-to-charge ratios represents 3.0 standard deviations (plus or minus) from the mean of the log distribution of cost-to-charge ratios for all hospitals. We believe that ratios falling outside this

range are unreasonable and are probably due to faulty data reporting or entry. Therefore, they should not be used to identify and pay cost outliers. We believe that 3.0 standard deviations represents an appropriate range and that the accuracy of cost-to-charge ratios falling outside that range is questionable. Rather than using a national cost-to-charge ratio for those instances in which reasonable hospital-specific cost-to-charge ratios cannot be determined, we believe that statewide ratios are more appropriate, since they better reflect variations in rate-setting controls among states.

The situation described by the commenter would occur no matter what parameters we would establish. There would always be instances in which ratios fall just outside either end of the acceptable range. However, we believe it is necessary to establish these parameters to ensure that only reasonable ratios are used to identify and pay cost outliers.

Comment: Two commenters expressed concern that certain public hospitals that have all-inclusive per diem charge structures will be disadvantaged by an outlier policy that places greater emphasis on cost outliers than day outliers. All-inclusive rate structure hospitals generally only receive day outliers since their charge structures are based on a per diem rate that does not reflect the intensity of ancillary services provided for each case. With an increase in the day outlier thresholds, these hospitals would qualify for fewer outlier payments than previously. The commenters suggested that a special provision be established for paying outliers to all-inclusive rate hospitals. One commenter stated that these hospitals should not be required to contribute fully to the outlier pool and also that they should receive an add-on to their DRG payments to reinstate the portion of the outlier offset representing cost outlier payments that they would have received under previous policy as day outlier payments.

Response: As explained above, more than 80 percent of the outlier cases and almost 85 percent of outlier payments will be made for day outliers under the outlier policy adopted in this final rule. While the number of days covered by outlier payments will be reduced somewhat because of the higher thresholds, all hospitals will continue to be protected against excessive losses on their extremely long-stay cases. Therefore, unless all-inclusive rate hospitals have day outliers that are predominantly at the low end of the range, they will not be more disadvantaged than other hospitals.

The Medicare program does not require hospitals, public or otherwise, to use an all-inclusive per diem charge structure. As such, we do not believe it is appropriate to establish special payment procedures to accommodate hospitals that have adopted this type of charge structure. In addition, we do not believe it is appropriate to provide an add-on to payments made to these hospitals to reflect the fact that they will not receive cost outlier payments. There are many hospitals nationwide that do not experience outlier cases to the extent that other hospitals do. However, the offsets to the rates necessary to finance outlier payments are uniform for all urban hospitals and for all rural hospitals, regardless of the extent to which individual hospitals receive outlier payments. Furthermore, it would be impossible to calculate the appropriate amount to refund to these hospitals, because their all-inclusive rate structure would not permit this type of calculation.

Comment: One commenter recommended that with the increased emphasis on cost outliers, cost outlier payments should be made automatically by the fiscal intermediary without requiring hospitals to request such payments. This would be consistent with how day outliers are paid.

Response: While more cases will be paid using the cost outlier methodology, the majority of those cases will be expensive day outlier cases that are paid using the cost outlier methodology because it generates the higher payment. Since these cases are day outliers, payment would be automatic and, as such, it is unnecessary to revise our policy that hospitals must request payment for cases qualifying as cost outliers.

Comment: Two commenters noted that there were no provisions in the proposed notice to account for the impact that the recently enacted Medicare Catastrophic Coverage Act (Pub. L. 100–360) will have on outlier payments.

Response: The proposed notice did not address the potential effects of the implementation of Pub. L. 100–360 on either prospective payment hospitals or hospitals and units excluded from the prospective payment system because the enactment date followed publication of the proposed rule. In establishing the rates, weights, outlier thresholds and target amounts for FY 1989 set forth in the addendum to this final rule, however, we have now taken into consideration the reductions in payments to hospitals by beneficiaries resulting from the elimination of a day limitation on Medicare inpatient hospital services, as required by section 104(c) of Pub. L. 100–360. We refer the reader to section V.M. of this preamble for a detailed discussion of the impact of the catastrophic coverage provisions on Medicare hospital payments.

Comment: We received comments from various segments of the hospital industry, as well as ProPAC, recommending that we take account of past overpayments to and underpayments from the outlier pool in future outlier payments.

Response: It has been our practice under the prospective payment system not to reflect overpayments and underpayments in future payments. Adopting this suggestion would bring us a step backward toward the cost reimbursement methodology, where there was a settlement at the end of a hospital's cost reporting year to reconcile interim payments with reimbursement due. The prospective payment system, on the other hand, is a future oriented system where changes in hospital practices and circumstances are reflected on a continuing, albeit lagged, basis.

We believe that by estimating outlier payments based on the latest and most accurate data available, we have met the statutory requirement that thresholds be set so as to ensure projected outlier payments equal between five and six percent of estimated prospective payments in a given fiscal year.

As we have explained in previous prospective payment rules (at 50 FR 35708, 51 FR 31523, and 51 FR 33047), we believe that we have consistently met our statutory obligation under sections 1886(d)(3)(B) and 1886(d)(5)(A)(iv) of the Act to ensure that the rate offsets used to finance outlier payments were equal to the estimated proportion of total prospective payments that were expected to be additional payments for outliers, and that the thresholds be set so as to yield outlier payments of five to six percent of estimated total DRG-based payments. We have consistently used the most recent Medicare discharge data available to estimate total prospective payments and outlier payments as a percentage thereof. Any discrepancy between the estimated outlier payment proportion (which is, in turn, equal to a weighted average of the urban and rural outlier offsets) and the actual outlier payment proportion is attributable entirely to behavioral and other changes that we are unable to predict and that affect length of stay and

hospital charges between the year from which data is drawn to set outlier thresholds and estimate outlier payments and total prospective payments and the year for which the payment rates and outlier thresholds are applicable.

As noted above, making adjustments to the standardized amounts to reflect past outlier payment experience that varies from our estimates would not be in accordance with current law, which specifies the amount of the update to the standardized amounts. In addition, based on the most complete billing data, we now estimate that for FY 1988 outlier payments will, in fact, be about 5.9 percent, thus exceeding the 5.1 percent outlier pool by 0.8 percent. Accordingly, to adopt this recommendation would require a reduction in the applicable standardized amounts of nearly one percent.

Comment: In the proposed rule we invited comments concerning the appropriateness of establishing differential outlier thresholds for hospitals paid the urban rate and hospitals paid the rural rate. Most of those commenting on this issue believe that it would be an appropriate issue to pursue but that further study is necessary before implementation. One commenter stated that it is appropriate that rural hospitals receive proportionately lower outlier payments than urban hospitals since rural hospitals generally do not have the facilities and technology to treat the more difficult cases.

Response: We appreciate the comments on this matter. We will continue to study this issue to determine if differential outlier thresholds are appropriate.

Comment: Some commenters were concerned that the increased emphasis on cost outliers in the proposed policy would provide an incentive for hospitals to increase their charges and to manipulate their charge structures.

Response: Cost outliers are identified by, and the amount of cost outlier payment determined by, comparing the charges for the case, adjusted by a cost-to-charge ratio, to the cost outlier threshold. Since both the cost-to-charge ratio (whether national or hospital-specific) and the threshold are constant for the payment period, the payment received by the hospital can be increased by increasing charges. In addition, hospitals can conceivably change their charge structures, just as is the case at present, to maximize their outlier payments.

Although concern over this type of incentive is appropriate, we believe that there are several factors that will mitigate its effects. First, increases in a hospital's overall charges relative to costs will be reflected in the cost-to-charge ratio assigned to the hospital in the future. This is one of the strong arguments for the use of hospital-specific cost-to-charge ratios. Second, many hospitals are restricted in their ability to arbitrarily increase their charges by the fact that they must deal with other third-party payers, some of which base their payments on charges. Also, several States place restrictions on hospital charge increases. Third, a general acceleration in hospital charge increases can be incorporated into the setting of thresholds in future years, which would limit the potential benefit to hospitals.

Fourth, outlier payments comprise a small percent of total hospital payments under the prospective payment system, diluting the incentive for hospitals to disrupt their operations by drastically and continually manipulating charges.

It must be pointed out that this incentive to manipulate charges is not new; in fact, any measure of cost (including length of stay) that is based on an indicator that is within the control of the provider provides an incentive to manipulate that indicator. As previously stated, we will continue to investigate potential improvements in the measurement of case level costs.

Comment: One commenter suggested that we adopt an "insurance model" that incorporates a fixed-loss style (variable) threshold, rather than the fixed threshold that currently applies. This would equalize the loss that hospitals have to bear for cases in different DRGs before they could begin to receive outlier payments.

Response: The proposed changes in the outlier payment methodology are intended to more explicitly recognize the insurance aspects of outlier payment. A fixed loss style threshold would seem to be consistent with that approach, and we have begun investigating the formulation of that type of threshold for cost outliers and evaluating the impact of such a change.

Currently, hospitals must bear greater losses in cases in relatively low-weight DRGs than in cases in relatively high weight DRGs before they can begin to receive cost outlier payments (that is, the "deductible" is not uniform across DRGs). The equalization of deductibles across DRGs is one option that has been considered in the development of a revised outlier payment policy. At this time, however, we do not have enough information on the specific form of such a change or on its impact to include it in our current policy. As we continue our research on outlier payment methodology, we will attempt to learn more about this option.

Comment: Some commenters asserted that the proposed changes in outlier payments are contrary to the original premise of the prospective payment system, thus representing a retreat to cost-based reimbursement.

Response: While it is true that the prospective payment system overall is intended to sever the connection between the payment received by a hospital and its own current costs, outlier payments, by their very nature, have always been an exception. Outliers are defined as exceptionally long or costly cases, and payment for these cases is made in recognition of their status as partial exceptions to the prospective payment mechanism. Under section 1886(d)(5)(A)(iii) of the Act, an outlier payment is based on our best estimate of the marginal cost of care beyond the outlier threshold and thus by legislation is tied to the cost of the case.

The previous use of length of stay as the predominant criterion for identifying outlier cases was based on our own desire to sever the link between cost and payment. Both HCFA and ProPAC have since further examined the measurement of case-level costs through the adjustment of case-level charges. Although this measure is not perfect, it is widely agreed that it is superior to length of stay for identifying cases that are extremely atypical relative to the average case. It is entirely consistent with the objectives of the prospective payment system to improve the effectiveness of outlier payments, which is the primary motivation for the changes that we proposed and are finalizing in this document. However, we will continue to investigate potential improvements in the measurement of case-level costs.

7. Implementation of Revised Outlier Policy

In order to provide sufficient time to those hospitals that may be disadvantaged by the changes we are making to outlier policy, the revised outlier policy (not including the changes made concerning burn outliers for which the statute mandates an effective date of April 1, 1988) will become effective with discharges occurring on or after November 1, 1988. The FY 1988 outlier policy will remain in effect for discharges occurring on or after October 1, 1988 and before November 1, 1988, with thresholds updated based on the most recent data. The FY 1988 policy incorporates an outlier pool of 5.1 percent, which will be maintained throughout FY 1989. In order to ensure

that the level of outlier payments is consistent with the outlier pool during the interim period before implementation of the revised outlier policy, it is necessary to adjust the current outlier thresholds. During the period October 1, 1988 through October 31, 1988, the day outlier threshold is set at the geometric mean length of stay for each DRG plus the lesser of 22 days or 2.0 standard deviations, and the cost outlier threshold is set at the greater of 2.0 times the prospective payment rate for each DRG or $23,750.

Effective with discharges occurring on or after November 1, 1988, the day outlier threshold will be set at the geometric mean length of stay for each DRG plus the lesser of 24 days or 3.0 standard deviations, and the cost outlier threshold will be set at the greater of 2.0 times the prospective payment rate for each DRG or $28,000.

F. Payments to Sole Community Hospitals (§ 412.92)

Section 4005(c) of Pub. L. 100–203 amended section 1886(d)(5)(C)(ii) of the Act to extend through cost reporting periods beginning before October 1, 1990, the time period allowed for a sole community hospital (SCH) to qualify for a payment adjustment for a cost reporting period during which the hospital experiences, due to circumstances beyond its control, a significant (that is, more than a five percent) decrease in its total inpatient discharges as compared to its immediately preceding cost reporting period. We proposed to revise § 412.92(e) to reflect this change.

In addition, section 4005(c) of Pub. L. 100–203 also amended section 1886(d)(5)(C)(ii) of the Act to extend the payment adjustment discussed above to those hospitals that meet the criteria to qualify as SCHs but do not receive payment under the prospective payment system as an SCH (that is, payment equal to 75 percent of the hospital-specific portion and 25 percent of the Federal regional portion). Therefore, if a hospital meets the criteria to qualify as an SCH, it may file for the volume decline adjustment regardless of whether it is being paid as an SCH. Of course, in order to receive the volume adjustment, the hospital must meet all the criteria necessary to qualify for a volume adjustment. This provision is effective for cost reporting periods beginning on or after October 1, 1987.

If a hospital wishes to take advantage of this payment adjustment, we proposed that the hospital would have to submit a request for SCH status to a HCFA regional office. The hospital's application must clearly state that it is seeking SCH status solely to qualify for the volume adjustment and that it does not wish to be paid under the prospective payment system as an SCH. For this purpose, the hospital must meet all criteria for classification of an SCH that are set forth in § 412.92(a).

We proposed that once HCFA's regional office has determined that a hospital meets the criteria to qualify as an SCH for the payment adjustment only, it would notify the hospital and the hospital's intermediary. The hospital would then submit to the intermediary documentation demonstrating the size of the decrease in discharges, explaining the circumstances giving rise to the decline in discharges and how they were beyond the hospital's control. The hospital's submission to the intermediary must be made within 180 days from the date of the notice from the HCFA regional office. The hospital must also furnish evidence of the actions it took to control costs in the face of the circumstances cited and the resulting decline in discharges.

HCFA determines the volume adjustment under the provisions of § 412.92. We proposed to clarify that section to conform with our current practice that HCFA makes its determination within 180 days from the date HCFA receives the hospital's request and all other necessary information from the intermediary. In addition, we stated that this volume adjustment determination is subject to review under Subpart R of Part 405.

Thus, we proposed to revise § 412.92(e) to extend the time period for the payment adjustment and add a new § 412.92(f) to provide for the payment adjustment for a hospital that qualifies as an SCH although it chooses not to be paid on the basis of a hospital-specific/Federal regional blend.

Section 4005(c)(2)(B) of Pub. L. 100–203 requires the Secretary to take appropriate steps to ensure that no more than $5 million is paid for FY 1988 and no more than $10 million is paid for FY 1989 to hospitals that qualify for SCH payment adjustments under this special provision. Accordingly, we will monitor expenditures under this provision to ensure that they do not exceed the amounts specifically authorized.

We also note that ProPAC has recommended that we issue guidelines, before FY 1989 begins, for interpreting the criteria used by our regional offices to designate sole community hospitals, so as to promote greater uniformity in their application (Recommendation 11). ProPAC also recommends that we evaluate whether the criteria can be improved to better identify sole providers of care to isolated populations.

We agree with ProPAC that it is desirable to have as much uniformity as possible in interpreting the criteria for determining sole community hospital status. Our analysis of the sole community hospital criteria is an ongoing process and we will continue to evaluate these criteria in order to achieve as much uniformity as possible in their application. However, the Secretary's current criteria, as set forth in the regulations at § 412.92, and the process for making sole community hospital determinations are the result of long experience with various criteria as well as with centralized and decentralized procedures for determining sole community status. See the proposed rule (53 FR 19518) for a detailed discussion of the history of the sole community hospital provision.

Based on our experience with sole community hospital criteria and the decision making process, we believe the criteria and process for making sole community hospital determinations are appropriate and provide the proper balance between uniform standards and recognition of local conditions. We have received very little criticism of the current system from hospitals. Nevertheless, we stated in the proposed rule that we will continue to study ProPAC's recommendations and the analyses performed by their contractor to assure that our criteria are appropriate for determining which hospitals are the sole source of care for Medicare beneficiaries. Moreover, in light of ProPAC's concern about the lack of interpretive guidelines, we proposed to incorporate into the regulations our definition of a service area and also an explanation of what a hospital must provide to the intermediary to document that no more than 25 percent of the residents of its service area were admitted to other like hospitals for care. This policy was first discussed in the preamble of the September 1, 1983 final rule (48 FR 39781).

First, a hospital that seeks to qualify as a sole community hospital under § 412.92 (a)(2)(i) or (a)(2)(ii), under which no more than 25 percent of the residents of the hospital's service area are admitted to other like hospitals for care, must submit to its intermediary admissions data documenting the boundaries of its service area. The term "service area" means the area from which a hospital draws at least 75 percent of its inpatients.

A hospital may delineate its service area by identifying the zip codes of all its inpatients for the cost reporting

period ending before the date it applies for SCH status. The lowest number of zip codes accounting for at least 75 percent of its inpatients would then constitute its service area. Alternatively, the boundaries of a hospital's service area as established by a statewide health planning agency may be used as long as the hospital can demonstrate that 75 percent of its inpatients are drawn from that area for the cost reporting period ending before it applies for SCH status.

In order to document that no more than 25 percent of the residents of its service area were admitted to other like hospitals for care, we proposed that a hospital would also gather and submit applicable admissions data by patient origin from all other hospitals located within its service area or, if larger, within 50 miles of the requesting hospital. That a hospital can develop its data using inpatients from the total population or from the Medicare population was previously discussed in the January 3, 1984 final rule (49 FR 272) and is already reflected in § 412.92(a)(2)(i) of the regulations. We did not propose to modify this provision. We expect that intermediaries can assist hospitals applying for SCH status by making available Medicare discharge data by patient origin for neighboring hospitals.

Similarly, we did not propose any revision to the stated policy that, if a hospital has fewer than 50 beds, it can be deemed to meet this criterion (that no more than 25 percent of the residents of its service area were admitted to other like hospitals for care) if its intermediary certifies that the hospital would have met this criterion were it not for the fact that some Medicare beneficiaries or residents of the hospital's service area were forced to seek care outside the service area due to the unavailability of certain specialty services at the hospital with fewer than 50 beds.

We proposed to add the term "service area" and its definition to § 412.92(c) and to add information that the hospital must provide to the intermediary to § 412.92(b).

In addition, we proposed to clarify certain terms used in the regulations text. In § 412.92(a)(2)(i), we proposed to add "who become hospital inpatients" after the word "residents" and after the word "beneficiaries." In § 412.92(c)(1), we proposed to replace the first sentence with the following: "The term *"miles"* means the shortest distance measured in miles over improved roads." The rest of that definition remains unchanged.

We are finalizing there provisions as proposed. In addition, we wish to clarify a point with respect to the special payment adjustment on the basis of a decrease in discharges. As is the case for all hospital requests for an exemption, exception, or adjustment, the hospital must submit its request for a volume adjustment to its intermediary no later than 180 days from the date on the intermediary's notice of amount of program reimbursement. This policy was first discussed in the preamble of the September 1, 1983 final rule (48 FR 39782). In order that there be no confusion on this issue, we are revising §§ 412.92 (e)(2)(i) and (f)(2)(i) to reflect this policy.

Comment: One commenter protested our proposal to use zip codes to define service area in determining whether a hospital draws at least 75 percent of its inpatients from its inpatients from its service area. The commenter stated that defining a service area consisting of the lowest number of zip codes from which a hospital draws at least 75 percent of its inpatients is inequitable because it does not address differences in zip code, population, size or geographic considerations. The commenter also questioned our apparent preference for documenting the admitting patterns by using general resident admissions rather than Medicare admissions.

Response: We agree that the zip code method of defining a service area has limitations and, for this reason, suggested it only as one alternative methodology. We noted in the proposed rule at 53 FR 19518 that, "Alternatively, the boundaries of a hospital's service area as established by a statewide health planning agency may be used as long as the hospital can demonstrate that 75 percent of its inpatients are drawn from that area for the cost reporting period ending before it applies for SCH status." Thus, a hospital may use either method to define its service area. Since not all States have health planning agencies that define each hospital's service area, we offered the zip code methodology as one means available to every hospital. The important consideration is that a hospital be able to define its service area as the area from which it draws 75 percent of its inpatient admissions, as stated in the regulations text at §412.92(c)(3).

With regard to the comment on documenting utilization using general inpatient admissions, rather than Medicare inpatient admissions, we believe that the percentage of general resident admissions drawn to a hospital is a more accurate measure of its true SCH status than the percentage of Medicare admissions. However, we are also aware that in some instances it is very difficult for a hospital to secure complete data on total general resident admissions. Therefore, in the January 3, 1984 Final Rule (49 FR 27), we noted that because of this difficulty, we would "* * * permit hospitals an option of demonstrating the required utilization using either total patient population or Medicare beneficiaries." Therefore, to further clarify that hospitals may use either population base to satisfy the criterion, we are deleting "if data on general resident utilization are not available," from § 412.92(a)(2)(i) of the regulations.

Comment: One commenter pointed out an inconsistency between an SCH criterion as presented in the regulatory text and as discussed in preamble language. That is, the regulatory text a § 412.92(a)(2)(i) states that we will measure whether more than 25 percent of the residents who become inpatients or 25 percent of the Medicare inpatients within a hospital's service area are admitted to other like hospitals for care. However, the preamble of the May 27, 1988 proposed rule states that this requirement can be satisfied if the hospital submits patient origin data from all other hospitals located within the larger of its service area or a 50-mile radius. The commenter noted that the regulatory text would require a hospital to identify every person within its service area or the 50-mile radius who was admitted to *any* hospital for treatment. Under the preamble language, a hospital seeking SCH status would have to show only that it admitted 75 percent of all the inpatients admitted to any hospital located within the larger of its service area or a 50-mile radius. The commenter also asked about what assistance is available from HCFA if neighboring hospitals are uncooperative in providing data on admissions to their facilities.

Response: We agree with the commenter that the language is confusing. We also recognize the difficulty of identifying every resident or Medicare beneficiary who became an inpatient during a particular period of time. Therefore, we are revising § 412.92(a)(2)(i) to clarify that a hospital seeking SCH status must show that during the cost reporting period ending before it files for SCH status, it admitted at least 75 percent of all the hospitalized residents or 75 percent of all the Medicare beneficiaries who were admitted to any like hospital located within the larger of the requesting

hospital's service area or a 50-mile radius.

We also recognize that there are some instances in which a hospital may experience difficulty in collecting the data to show the percentage of patients it admits from its service area. That is, not every State has a statewide planning agency that furnishes a patient origin data. Also, neighboring hospitals may not be cooperative in furnishing such information to hospitals seeking SCH status. In addition, not all intermediaries have the capability to furnish patient origin data by zip code. We are therefore offering to assist hospitals to making available data from Medicare's central office records. Hospitals seeking this assistance should address their requests to their intermediary.

The hospital must furnish its full name, address and Medicare provider number and state that it is requesting patient origin data so that it may qualify as an SCH. The hospital must furnish a complete listing of zip codes within its service area and it must provide the full name, address and, if available, the Medicare provider number of every other hospital located within the larger of its service area or a 50-mile radius. It must also furnish the beginning and ending date of its most recently completed cost reporting period.

After the intermediary verifies the information furnished and forwards the hospital's request to HCFA's central office, HCFA will respond as rapidly as possible and will provide a count by zip code of the number of Medicare discharges from each of the identified hospitals for the one year period representing the requesting hospital's most recently completed cost reporting period. No patient identifying information will be provided, only counts of discharges by zip code for each hospital.

Hospitals should be aware that if they fail to achieve SCH status based on HCFA-furnished data on Medicare patient origin, they may not substitute other patient origin data for the same time period to demonstrate that the hospital seeking SCH status admitted at least 75 percent of all Medicare beneficiaries who were admitted to this hospital and all like hospitals within its service area or, if larger, a 50-mile radius. That is, once a hospital elects to have HCFA furnish the patient origin data, only HCFA's data will be considered in the determination. This limitation is intended to minimize the administrative burden of having HCFA produce patient origin data for hospitals that have not exhausted other sources of such data.

Comment: One commenter questioned whether it would continue to be treated as an SCH in view of its county's deemed urban status under the provisions of section 1886(d)(8)(B) of the Act, as added by section 4005(a) of Pub. L. 100–203.

Response: Section 4005(a) of Pub. L. 100–203 amended section 1886(d)(8)(B) to provide that "The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas [which meets certain criteria] as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if * * *." Under the regulations at § 412.92(a), hospitals granted SCH status on October 1, 1983 or later must be located in a rural area. Therefore, if the hospital was approved under the provisions at § 412.92(a), then we believe it can no longer be classified as an SCH effective October 1, 1988, the effective date of its urban status under section 1886(d)(8)(B). However, the regulations at § 412.92(b)(4) state that a hospital that was approved as an SCH before October 1, 1983 or a hospital whose application was submitted by October 1, 1983 and subsequently approved will continue to be an SCH until it voluntarily cancels its status or unless there is a change in the circumstances under which it was approved. Based on this provision, several hospitals in urban areas continue to be classified as SCHs. Therefore, if the hospital to which the commenter refers was approved under the provisions of § 412.92(b)(4), we see no impediment to its continuing to be classified as an SCH despite it now being in an area deemed to be urban.

Comment: Several commenters made specific suggestions for redefining the criteria to qualify for SCH status and for modifying the payment methodology for SCHs. Included as suggestions were designating as an SCH any hospital located in a county in which there are no other hospitals or any hospital located a specified number of miles or minutes from another hospital. The commenters also suggested that the basic payment to SCHs should be based on the amount that they would be paid if they were not classified as SCHs plus a percentage of the difference between costs and prospective payments when costs exceed payments.

Response: With regard to the commenters' suggestions on redefining and simplifying the criteria to qualify for SCH status, we agree that the current standards are cumbersome and difficult to define clearly. We hope to publish revised and simplified standards in the future. While we will certainly keep the commenters' proposed criteria in mind, adoption of some of the suggestions would appear to result in inequitable treatment of hospitals. For example, if we designated as an SCH any hospital located in a county in which there is no other hospital, the situation could arise in which a hospital is the only one in the county despite the existence of another hospital located in close proximity just over a nearby county line. We do not believe that such a hospital could truly be called a "sole" community hospital.

Similarly, we foresee difficulty in designating SCHs based on travel time from another hospital since travel time is contingent upon, for example, time of day, traffic congestion, and weather conditions. We favor redefining the SCH criteria solely on the basis of miles from another hospital as suggested by the commenters, but we are not prepared to propose revisions at this time.

In regard to the commenters' suggestion that we revise the payment methodology for SCHs, the current methodology is established by law. Therefore, we have no discretion with respect to the method under which prospective payments are made to SCHs. We note, however, that one of the provisions of Pub. L. 100–203 addresses, in part, the commenters' suggestion. That is, section 4005(c) of Pub. L. 100–203 amended section 1886(d)(5)(c)(ii) of the Act to permit a hospital that meets the criteria to qualify as an SCH, but chooses not to be paid under the prospective payment system as an SCH, to also qualify for the special payment adjustment available to SCHs whose volume of discharges declines more than five percent from the previous year. As a result, if a hospital meets the criteria to qualify as an SCH and experiences a decrease of five percent or more in total inpatient discharges due to circumstances beyond its control, the hospital may receive the volume decline adjustment regardless of whether it is being paid as an SCH. The amount of the adjustment is limited to no more than the difference between the hospital's Medicare inpatient operating cost and the hospital's total DRG revenue.

Comment: In its comments on our proposed rule, ProPAC reiterated several of its previous suggestions and recommendations (see 53 FR 19523), many of which we have responded to elsewhere in this section of the preamble. Additional ProPAC comments not addressed elsewhere are: (1) HCFA should limit the time allowed to act on a hospital's SCH designation application; (2) the Secretary should provide more

supporting evidence for its definition of hospital market area; (3) HCFA should attempt to clarify further the SCH designation criteria to promote greater uniformity in the implementation of procedures; and (4) the Secretary should undertake a study and provide technical assistance to the public to evaluate the effectiveness of the current SCH protections.

Response: With respect to the issue of a time constraint for acting on a hospital's application for SCH designation, the HCFA regional offices act as quickly as possible given their personnel and budget constraints. However, the requesting hospital often submits incomplete or insufficient data in support of its request. As a result, the regional office must go back to the hospital in an effort to obtain sufficient documentation to justify a decision. This process can be time-consuming for reasons beyond the control of the regional office. Therefore, we are not proposing time limits for HCFA regional offices. Rather, we will continue to work with ProPAC, regional office personnel, and the hospital industry in an effort to streamline the application process and expedite each hospital's request as rapidly as possible.

With respect to the remaining issues, we agree with ProPAC that further study of our definition of hospital market area, our criteria for determining SCH status, and the effectiveness of the current SCH protections is required. Our analysis of the SCH provisions is an ongoing process, and we will continue to study and work with other interested parties to ensure that our criteria are appropriate for determining which hospitals are the sole source of care for Medicare beneficiaries, and that sufficient protections are in place to provide beneficiary access to inpatient hospital services.

G. Rural Referral Centers (§ 412.96)

Under the authority of section 1886(d)(5)(C)(i) of the Act, § 412.96 sets forth the criteria a hospital must meet in order to receive special treatment under the prospective payment system as a referral center. Prior to the enactment of Pub. L. 100–203, one of the criteria under which a rural hospital could qualify as a referral center was to have 500 or more beds available for use. Section 4005(d) of Pub. L. 100–203 amended section 1886(d)(5)(C)(i)(I) of the Act to reduce the bed size criterion from 500 or more beds to 275 or more beds, effective with discharges on or after April 1, 1988.

In the April 5, 1988 notice, at (53 FR 11136), we discussed our policy concerning which beds in a hospital should be counted in evaluating whether a rural hospital meets the new bed size criterion. We stated that, in determining whether a hospital has 275 or more beds, we count only beds available for use within the subsection (d) hospital (that is, we do not count beds located in an excluded psychiatric unit, rehabilitation unit, or newborn nursery).

As further clarification of our policy in implementing the provisions of Pub. L. 100–203 concerning rural referral centers, we proposed that the method for determining the number of beds for indirect medical education purposes be used for counting available beds for rural referral center purposes. That is, we would use the definition at § 412.118(b) to determine if a hospital has 275 or more available beds to qualify it as a rural referral center. For rural referral center purposes, in the May 27, 1988 proposed rule, we proposed to look at the hospital's most recently completed cost reporting period in making this determination. For example, for cost reporting periods beginning on or after October 1, 1988 and before October 1, 1989, we proposed to apply the definition at § 412.118(b) for determining the number of beds for indirect medical education payment purposes to the hospital's cost reporting period that began on or after October 1, 1986 and before October 1, 1987. This is consistent with the time period used to count a hospital's number of discharges to qualify as a rural referral center under § 412.96(c)(2).

In the April 5, 1988 notice, we also stated that rural referral centers should be paid the standardized amounts for hospitals located in other urban areas rather than the standardized amounts for hospitals located in large urban areas. As a part of the May 27, 1988 proposed rule, we proposed to amend § 412.96 to implement the provisions of section 1886(d)(5)(C)(i)(1) of the Act.

Comment: One commenter urged us to take action to address the special needs of referral centers located in urban areas.

Response: In the September 3, 1985 final rule (50 FR 35678), we noted that we would obtain and review cost data from urban hospitals to determine whether urban referral centers should receive any payment adjustment. We have reviewed these data and determined that there is no justification for a payment adjustment at this time. Large urban hospitals in general continue to enjoy favorable operating margins under the prospective payment system. In cases in which hospitals receive more in prospective payment revenues than their Medicare operating costs, we do not believe it is necessary or reasonable to provide additional adjustments. We will continue to monitor the data in future years to determine if the situation changes.

Comment: We received many comments concerning our policy about which beds should be counted in determining whether a rural hospital meets the bed size criterion necessary to receive special treatment as a rural referral center. The commenters objected to our decision announced in the April 5, 1988 notice (at 53 FR 9339) to use the same procedure for counting beds for rural referral center purposes as is used for counting beds for indirect medical education payment purposes. The commenters also uniformly criticized our proposal in the May 27, 1988 proposed rule (at 53 FR 19519) to count these beds as of the close of the most recently completed cost reporting period. Virtually all commenters who wrote about rural referral centers asserted that we should instead determine the actual number of beds available for use on the effective date of the hospital's classification as a rural referral center.

Response: Based on the comments received, we have reconsidered our policy. The commenters brought to our attention several scenarios that we had not envisioned. Therefore, we are modifying our policies to take into consideration increases in bed count that have occurred since the close of the most recently completed cost reporting period for any of the following reasons:

- Merger of two or more hospitals;
- Reopening of acute care beds in areas previously closed for renovation;
- Transfer of acute care beds previously classified as part of an excluded unit to areas of the hospital subject to the prospective payment system; or
- Expansion of the number of acute care beds available for use and permanently maintained for lodging inpatients (that is, not beds in corridors or other temporary beds).

For purposes of determining a hospital's number of beds for classification as a rural referral center, we will use the bed count as determined from the hospital's most recently completed cost report unless the hospital submits convincing written documentation with its application that its bed count has changed since the close of the most recently completed cost reporting period for one of the reasons cited above. Such convincing evidence may include, but is not limited to: written approval by the State licensing agency to expand the number of beds (together with proof, as discussed below, that an increase in

beds has actually occurred); notice from HCFA agreeing to transfer beds in previously excluded units to the prospective payment system; and documentation of a legitimate merger of two hospitals.

We continue to believe that newborn nursery beds, custodial care beds, and beds in units excluded from the prospective payment system should not be included in determining whether a hospital meets the 275-bed criterion. Also, we will count only licensed beds actually available for use, that is, beds in place, staffed and available to receive patients for inpatient lodging.

As part of our review of each request for rural referral center status based on bed count, we will determine the number of beds as shown on the hospital's most recently submitted cost report. If the number of beds (or that number of beds plus any beds added for one of the reasons listed above, for example, through an expansion or a merger) is below 275, the hospital must explain the discrepancy and document how and why the cost report bed count varies from the number now claimed. If beds have actually been added or put back into service (other than through transfer of a unit from excluded status to prospective payment status), we would expect to see a corresponding increase in staffing and other variable costs. Hospitals are expected to submit documentation (for example, lists of personnel added) in support of their claims of added beds.

Being licensed by a State agency to maintain up to a certain number of beds is not by itself proof of a bed count if the most recently submitted cost report shows that a smaller number of beds was actually available. It is common for a hospital to maintain a fewer number of beds than it is actually licensed to maintain for inpatient care. We believe Congressional intent was to extend the rural referral center adjustment only to those hospitals that are legitimately maintaining 275 or more available prospective payment beds. Therefore, we will carefully review each request to ensure that only those hospitals that are actually maintaining 275 or more prospective payment beds are approved as rural referral centers. It should also be noted that bed counts may be subject to onsite verification by the intermediary or HCFA personnel.

We wish to reiterate that it is the responsibility of a hospital to demonstrate that its bed count has changed if the hospital's count of beds is different from that shown on the most recently submitted cost report. In the absence of verifiable evidence, HCFA regional office personnel will determine the bed count by using the count as shown on the last submitted cost report.

Using the bed count criteria previously published, some hospitals filed for and were denied rural referral center status during the 90-day period granted to implement this revision in the law. Since we are now revising the method of counting beds in this final rule, hospitals whose applications were denied should resubmit their applications within 60 days from the effective date of this final rule, together with all evidence available in support of their bed count and a copy of the previous denial, to the appropriate HCFA regional office. If review using the revised standards results in approval for status as a rural referral center, the effective date will be retroactive to April 1, 1988, as specified in section 4005(d) of Pub. L. 100–203, but in no instance can status as a rural referral center precede the date that the hospital actually had 275 available beds as defined above.

All other hospitals that believe that they meet these revised standards should submit their applications using the usual rural referral center filing time frames; that is, the application must be submitted during the 90-day period preceding the start of the hospital's cost reporting period and, if approved, status as a rural referral center becomes effective with the start of the hospital's next cost reporting period following the application.

Comment: One commenter objected to our not counting recovery room and labor and delivery room beds toward meeting the rural referral center bed size criterion of 275 or more beds just because the commenter's State licensing agency does not license them.

Response: We believe it is common practice for State licensing agencies not to license or include in a hospital's bed count those beds located in recovery or labor and delivery rooms. Moreover, Medicare policy has historically not counted beds in recovery rooms or labor and delivery rooms in determining a hospital's bed size, because patients in these beds are normally there for only brief periods of time, and during these times, the patient's assigned bed is usually held for him or her. Like beds in other ancillary departments, such as x-ray and radiology departments, these beds are not available for extended patient lodging. Thus, regardless of whether these beds are or are not licensed by the State, they are not counted toward meeting the 275-bed requirement.

A rural hospital that does not meet the bed size criterion can qualify as a rural referral center if the hospital meets two mandatory criteria (number of discharges and case-mix index) and at least one of three optional criteria (medical staff, source of inpatients, or volume of referrals). With respect to the two mandatory criteria, currently a hospital is 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 the census region in which the hospital is located, 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 discharges per year or, if less, the median number of discharges for urban hospitals in the census region in which the hospital is located. (We note that 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 HCFA will establish updated national and regional case-mix index values in each year's annual notice of prospective payment rates for purposes of determining referral center status. In determining the proposed national and regional case-mix index values, we proposed to follow the same methodology we used in the November 24, 1986, final rule, as set forth in regulations at § 412.96(c)(1)(ii). Therefore, we proposed that the national case-mix index value include all urban hospitals nationwide and that the regional values would be 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 § 412.118).

These values are based on discharges occurring during FY 1987 (October 1, 1986, through September 30, 1987) and include bills posted to HCFA's records through December 1987. Therefore, in addition to meeting other criteria, we proposed that to qualify for or to retain rural referral center status for cost reporting periods beginning on or after October 1, 1988, a hospital's case-mix index value for FY 1987 would have to be at least—

- 1.1764; or
- Equal to the median case-mix index value for urban hospitals (excluding hospitals with approved teaching programs as identified in § 412.118) calculated by HCFA for the census region in which the hospital is located as indicated in the table below.

Region	Case-mix index value
1. New England (CT, ME, MA, NH, RI, VT)	1.1370
2. Middle Atlantic (PA, NJ, NY)	1.1124
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	1.1624
4. East North Central (IL, IN, MI, OH, WI)	1.1307
5. East South Central (AL, KY, MS, TN)	1.1186
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	1.1501
7. West South Central (AR, LA, OK, TX)	1.1795
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	1.1950
9. Pacific (AK, CA, HI, OR, WA)	1.1929

Based on the latest data available (through June 1988), the final national case-mix index value is 1.1782 and the median case-mix index value by region are set forth in the table below.

Region	Case-mix index value
1. New England (CT, ME, MA, NH, RI, VT)	1.1393
2. Middle Atlantic (PA, NJ, NY)	1.1130
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	1.1655
4. East North Central (IL, IN, MI, OH, WI)	1.1310
5. East South Central (AL, KY, MS, TN)	1.1208
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	1.1511
7. West South Central (AR, LA, OK, TX)	1.1828
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	1.1964
9. Pacific (AK, CA, HI, OR, WA)	1.1944

For the benefit of hospitals seeking to qualify as referral centers or those wishing to know how their case-mix index value compares to the criteria, we are publishing the FY 1987 case-mix index values in Table 3c in section IV of the addendum to this final rule. 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.

Comment: One commenter stated that it was inequitable that existing rural referral centers have to maintain a case-mix index higher than 50 percent of all urban hospitals in the country. The commenter also suggested that the current "grandfather period" for rural referral center status be extended for another three years.

Response: The criteria used to determine the case-mix index standards were established in section 1886(d)(5)(C)(i) of the Act. That section states that the regional case-mix index standards will be equal to the median case-mix index for hospitals (other than hospitals with approved teaching programs) located in an urban area in the same region. The regional standards in the May 27, 1988, proposed rule and those published in this final rule comply with section 1886(d)(5)(C)(i) of the Act. The national case-mix index standard is based on the median case-mix index of all urban hospitals nationwide.

Section 9302(d) of Pub. L. 99–509 introduced the grandfather provision to which the commenter refers. It stated that any hospital that was classified as a rural referral center on the date of enactment of that law shall continue to be classified as a rural referral center for cost reporting periods beginning on or after October 1, 1986, and before October 1, 1989. Thus, any hospital that was classified as a rural referral center as of October 21, 1986 (the date of enactment of Pub. L. 99–509) is guaranteed this status through its cost reporting period beginning before October 1, 1989. We do not know whether Congress will extend the grandfather provision beyond that date. However, since we believe that it is important for existing rural referral centers to demonstrate continuing compliance with the generally applicable legislated measurements of rural referral center status, we would oppose the extension of the grandfather provision.

Comment: One commenter suggested that, rather than have a single category of "all or nothing" rural referral centers, we implement a five-tiered adjustment for all rural hospitals. Under the commenter's proposal, HCFA would rank each rural hospital by its case-mix index. Hospitals whose case-mix index equals or exceeds the median case-mix index of urban non-teaching hospitals in the same census region would receive the full urban standardized amount. Those whose case-mix index falls within the 40th through 49th percentiles would be paid based on 80 percent of the urban standardized amount and 20 percent of the rural standardized amount. Those whose case-mix index falls within the 30th through 39th percentiles would be paid based on 70 percent of the standardized amount of the urban and 30 percent of the rural, and so forth. Under the commenter's plan, hospitals would not be required to apply for this type of adjustment; instead HCFA would notify each hospital of its ranking and payment status.

Response: The commenter has presented an interesting concept, but one that we believe is not administratively feasible. Also, we believe that the suggested concept is not in keeping with the Congressional intent that only large, technologically sophisticated hospitals serving as resource centers for patients from wide geographic areas should be approved rural referral centers. The commenter's suggestion would provide adjustments for all rural hospitals except those falling below the 10th percentile in a case-mix index ranking. Furthermore, we do not believe it was the intent of Congress for the prospective payment system to provide tiered rates to rural hospitals. Rather, Congress stated that the prospective payment system was eventually to pay a specific amount for each discharge based on a case's classification into a specific diagnostic-related group regardless of the hospital's location. Therefore, we are not adopting the commenter's suggestion.

2. Discharges

Section 412.96(c)(2)(i) provides that HCFA will set forth the national and regional numbers of discharges in each year's annual notice of prospective payment rates for purposes of determining referral center status. As specified in section 1886(d)(5)(C)(i)(II) of the Act, the national standard is set at 5,000 discharges. We proposed to update the regional standards, which are based on discharges for urban hospitals during the third year of the prospective payment system (that is, October 1, 1985 through September 30, 1986), which is the latest year for which we have complete discharge data available.

Therefore, in addition to meeting other criteria, we proposed that to qualify for or to retain rural referral center status for cost reporting periods beginning on or after October 1, 1988, a hospital's number of discharges for its cost reporting period that began during FY 1987 would have to be at least—

- 5,000; or
- Equal to the median number of discharges for urban hospitals in the census region in which the hospital is located as indicated in the table below.

Region	Number of discharges
1. New England (CT, ME, MA, NH, RI, VT)	6,730
2. Middle Atlantic (PA, NJ, NY)	8,063
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	6,125
4. East North Central (IL, IN, MI, OH, WI)	7,381
5. East South Central (AL, KY, MS, TN)	5,782
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	5,102
7. West South Central (AR, LA, OK, TX)	4,393
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	6,142

Region	Number of discharges
9. Pacific (AK, CA, HI, OR, WA)	4,797

Based on the latest discharge data available, the final median number of discharges by census region are set forth in the table below.

Region	Number of discharges
1. New England (CT, ME, MA, NH, RI, VT)	6,749
2. Middle Atlantic (PA, NJ, NY)	8,145
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	6,489
4. East North Central (IL, IN, MI, OH, WI)	7,289
5. East South Central (AL, KY, MS, TN)	5,782
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	5,633
7. West South Central (AR, LA, OK, TX)	4,393
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	7,182
9. Pacific (AK, CA, HI, OR, WA)	4,570

We note that to qualify for or to retain rural referral center status for cost reporting periods beginning on or after October 1, 1988, an osteopathic hospital's number of discharges for its cost reporting period that began during FY 1987 would have to be at least 3,000.

Comment: Several commenters asserted that the proposed discharge standards for qualification as a rural referral center do not accurately reflect the decline in occupancy being experienced by many rural hospitals. The commenters suggested that the discharge standards should be lowered considerably.

Response: Section 1886(d)(5)(C)(i) of the Act specifically provides for the national discharge criterion of 5,000 discharges annually and the regional standards that are based on the median number of discharges for urban hospitals in the census region in which the hospital is located (and the upper limit of the discharge standard for osteopathic hospitals of 3,000). The standards published in this final rule conform to the requirements of section 1886(d)(5)(C)(i) of the Act. We do not believe we have authority to impose standards other than those legislated.

H. Disproportionate Share Adjustment (§ 412.106)

Section 4003 (b), (c), and (d) of Pub. L. 100–203 amended section 1886(d) of the Act to provide for several changes to the rules that govern the disproportionate share adjustment. We proposed to revise § 412.106 to implement these provisions, which are all effective beginning with discharges on or after October 1, 1988.

First, section 4003(b)(1) of Pub. L. 100–203 amended section 1886(d)(5)(F)(iii) of the Act to increase from 15 percent to 25 percent the disproportionate share payment adjustment factor for a hospital that qualifies as a disproportionate share hospital under § 412.106(b)(1)(ii), that is, the hospital has 100 or more beds; is located in an urban area; and receives more than 30 percent of net inpatient revenues from State and local government sources for the care of indigent patients not eligible for Medicare or Medicaid.

Second, section 4003(b)(2) of Pub. L. 100–203 amended section 1886(d)(5)(F)(iv)(I) of the Act to eliminate the 15 percent cap on the payment adjustment factor for a hospital that qualifies as a disproportionate share hospital under either § 412.106 (b)(1)(i)(A) or (b)(2): that is, the hospital has a disproportionate patient percentage (as defined in § 412.106(a)(1)) of at least 15 percent, has 100 or more beds, and is located in an urban area; or the hospital has a disproportionate patient percentage of at least 15 percent, has 500 or more beds, and is located in a rural area.

Third, section 4003(c) of Pub. L. 100–203 amended sections 1886(d)(2)(C)(iv) and 1886(d)(5)(F)(i) of the Act to extend payment of the disproportionate share adjustment through discharges that occur before October 1, 1990. Prior to enactment of Pub. L. 100–203, the payment adjustment for disproportionate share hospitals was to be made only through discharges occurring before October 1, 1989.

In addition, section 1886(d)(5)(F) of the Act as amended by section 4009(j)(3)(A) of Pub. L. 100–203 clarifies that "net" inpatient revenue is the denominator when determining whether a hospital meets the requirement that 30 percent of its inpatient revenue is from State and local government sources for the care of indigent patients. Because regulations at § 412.106(b)(1)(ii) refer to total inpatient care revenue, we proposed to revise this section to clarify that we would use net inpatient revenue rather than gross inpatient revenue in determining whether a hospital qualifies for a disproportionate share adjustment under this provision.

Net inpatient revenues are defined as gross inpatient revenues minus allowances. Allowances represent reductions in revenue for amounts not expected to be realized as revenues. These include allowances for bad debts, charity care, and courtesy discounts and third party contractual allowances.

Comment: We received one comment from a Medicare intermediary that discussed the impact that elimination of the 15 percent cap on disproportionate share payments would have on some hospitals. The intermediary asserted that eight of the hospitals it services would receive disproportionate share payments of between 31 and 44 percent of its DRG-based payments.

Response: We recognize that eliminating the cap on the disproportionate share payment will result in significant additional payments for a number of hospitals. However, sections 4003 (b)(2) and (e) of Pub. L. 100–203 specifically require that effective with discharges on or after October 1, 1988, the cap on disproportionate share payments is eliminated.

Comment: One commenter objected to the use of net inpatient revenues in determining whether a hospital meets the requirement that 30 percent of its inpatient revenues are from State and local government sources for the care of indigent patients. Because of the disparity in the percentage of revenue reductions to gross revenue across the country depending on the type of payment system used by the various state programs, the use of net revenues is an inconsistent measure.

Response: While gross inpatient revenues may be a more consistent measure for determining the percentage of inpatient revenues from State and local government sources for indigent patient care, section 1886(d)(5)(F)(i)(II) of the Act is very specific that "net" inpatient revenues is to be used as the denominator when computing this percentage. That section was amended by section 4009(j)(3)(A) of Pub. L. 100–203 specifically to require that we use "net" inpatient revenues.

I. Classification of Capital-Related Costs and Direct Medical Education Costs (§ 412.113)

The prospective payment system was enacted by section 601 of the Social Security Amendments of 1983 (Pub. L. 98–21) with the intention of curtailing the high rate of increase in hospital inpatient operating expenditures. The term "operating costs of inpatient hospital services" was defined to include all inpatient routine and ancillary costs except for capital-related costs. Payment for capital related costs continues to be determined on a reasonable cost basis. The cost of approved medical educational activities is also excluded from the definition of "operating costs."

In order to ensure that reclassification of costs included in or excluded from the prospective payment system was minimized, we added the "consistency rule" to the regulations governing the prospective payment system. It most recently was set forth at § 412.113 (a)(1) and (b). The consistency rule required that the classification of these capital-related and direct medical education costs remain constant for each hospital during the prospective payment transition period. This rule was necessary since a portion of the prospectively determined payment during the transition to fully Federal standardized rates was based upon a hospital's own cost experience (that is, the hospital-specific rate). Continued use of the same classifications was instituted to avoid paying for the same costs under both payment methodologies; that is, once in the hospital-specific rate where they are included in base year costs and once in pass-through costs if the classification of cost changed during the transition.

We believe that the "consistency rule" for capital-related and direct medical education cost classifications has been effective during the transition period. The rule has been particularly important in identifying situations where there were gross and monitarily substantial misclassifications of those costs in the period before implementation of the prospective payment system. This was especially true for medical education cost misclassifications. As a result of application of the consistency rule, both hospitals and HCFA have sought revisions on a case-by-case basis to ensure that the same costs are not paid for under both payment methodologies (that is, on a reasonable cost basis as a pass-through item and under the prospective payment system as part of the hospital specific rate) and to ensure appropriate payments for such costs are consistent with the modification of base year costs rules at § 412.72.

With the expiration of the transition period, prospectively determined payment is now based on national and regional standardized rates that do not depend upon an individual hospital's cost experience. Thus, restrictions on the classification of capital-related and direct medical education costs are no longer necessary. Therefore, we proposed eliminate this requirement so that it would not be confusing to hospitals in future cost reporting periods.

Comment: Commenters supported elimination of the consistency rule, which required that classification of capital-related and direct medical education costs remain constant for each hospital during the prospective payment transition period. Several commenters asked that we stipulate the effective date of the expiration of the consistency rule.

Response: As noted in the preamble of the proposed rule at 53 FR 19520, the consistent application of classification for capital-related and direct medical education costs is no longer necessary due to the expiration of the prospective payment transition period. We are simply deleting the language from the regulations text concerning the consistency rule to avoid further confusion. However, just as the regulations previously required, consistency for capital related costs must be applied only to cost reporting periods beginning before October 1, 1986 and for direct medical education costs only for cost reporting periods beginning before October 1, 1987.

J. Elimination of Interim Payments for Indirect Medical Education Costs (§ 412.116)

Previously, under § 412.116, payments for indirect medical education costs were on the basis of 26 equal biweekly payments, subject to a year-end adjustment. Because the Pricer program used by intermediaries to calculate payments already computes the indirect medical education interim payments on a bill-by-bill basis, we proposed to pay for indirect medical education costs on a bill-by-bill basis, effective with discharges on or after October 1, 1988. This is consistent with the way in which payments are made for the disproportionate share adjustment. Thus, we proposed to delete § 412.116(d) from the regulations.

Comment: Several commenters objected to the elimination of periodic interim payments for indirect medical education costs because of the negative effects the proposal would have on the cash flow of teaching hospitals. Another commenter suggested that it be made clear that the indirect medical education payment made on a bill-by-bill basis are interim payments subject to adjustment at settlement.

Response: We do not believe in general that teaching hospitals will experience a substantial cash flow problem as a direct result of this change in policy. Furthermore, the advantages of paying for indirect medical education costs on a bill-by-bill basis are so compelling that we plan to implement it beginning with discharges on or after October 1, 1988. By linking the payment mechanism to the Pricer program, bill-by-bill payments will ensure more accurate payments, administrative expediency, and payments consistent with the Medicare inpatient services being furnished and billed by teaching hospitals. It is important to note, however, that, as appropriate, the Pricer must be updated during the year whenever changes in the parameters used in the Pricer program occur. Thus, if there is a change from the prior year in the intern and resident to-bed ratio, the new figure must be reflected in Pricer to ensure that the indirect medical education payments are as accurate as possible for the current cost reporting period. At the end of a hospital's fiscal year, any necessary adjustments in the indirect medical payment will be made at final settlement of the cost report.

K. Indirect Medical Education Costs (§ 412.118)

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals that operate medical education programs receive an additional payment for the indirect costs of medical education. The regulations governing the calculation of this additional payment are set forth at § 412.118. Each hospital's additional indirect medical education payment is determined by multiplying the hospital's total DRG revenue (that is, wage-adjusted DRG payments and outlier payments) by the applicable education adjustment factor.

Section 4003(a) of Pub. L. 100–203 revised section 1886(d)(5)(B)(ii) of the Act to reduce the education adjustment factor used to determine the indirect medical education payment from approximately 8.1 percent to approximately 7.7 percent for discharges occurring on or after October 1, 1988 and before October 1, 1990. The 8.1 percent and 7.7 percent are approximations because the true education adjustment factor is applied on a curvilinear or variable basis. An adjustment made on a curvilinear basis reflects a nonlinear relationship; that is, each absolute increment in a hospital's ratio of interns and residents to beds does not result in an equal proportional increase in payments.

For discharges occurring on or after October 1, 1988 and before October 1, 1990, the indirect medical education factor equals the following:

$$1.89 \times \left| \left(1 + \frac{\text{interns and residents}}{\text{beds}} \right)^{.405} - 1 \right|$$

For discharges occurring on or after October 1, 1990, the indirect medical education factor equals the following:

$$1.43\times\left[\left(1+\frac{\text{interns and residents}}{\text{beds}}\right)^{.5795}-1\right]$$

We proposed to amend § 412.118 (c) and (d) to implement the provisions of section 1886(d)(5)(B)(ii) of the Act.

Comment: Several commenters objected to the reduction of the effective indirect medical education payment factor from approximately 8.1 percent to approximately 7.7 percent. One commenter said that this payment factor should not be reduced until HCFA implements a severity-of-illness factor to reflect more accurately the costs of these resource-intensive Medicare cases.

Response: This reduction was mandated by section 4003(a) of Pub. L. 100–203, and HCFA had no discretion in implementing the change.

L. Ceiling on Rate of Hospital Cost Increases (§ 413.40)

Payment to hospitals and hospital units that are excluded from the prospective payment system is on a reasonable cost basis, subject to the rate-of-increase limits established by section 1886(b) of the Act. These excluded hospitals and hospital units receive payment for the inpatient hospital services they furnish on the basis of reasonable cost up to a ceiling. The ceiling is determined by a per discharge rate based upon each hospital's or excluded hospital unit's average cost per case in a particular year (that is, the base year) which is then updated annually by an applicable percentage increase. The per discharge rate is referred to as the target amount, and the percentage update is referred to as the target rate or rate-of-increase limit. By using each hospital's or hospital unit's historical cost to establish a target amount for future periods, the choice of an appropriate and representative base period becomes an important factor that must be carefully defined and uniquely maintained for each excluded hospital or hospital unit for all future cost reporting periods.

Section 1886(b)(3) of the Act provides for the use of a particular 12-month cost reporting period as the base period that is to serve as the basis of future period's cost per case (that is, the target amount) after updating by the applicable percentage increase. That particular period is the hospital's or hospital unit's first 12-month cost reporting period beginning on or after October 1, 1981. Section 1886(b)(5) of the Act gives the Secretary the authority to determine the applicable 12-month period to use as the base period for hospitals or hospital units that have a cost reporting period of other than 12-months' duration. This policy is set forth in regulations at § 413.40(b).

We have experienced increasingly frequent requests from hospitals to change their original base year to a later period of time when the hospital or unit does not have consecutive 12-month cost reporting periods after October 1, 1982, the earliest period to which the limits apply. In addition, we have received requests for the selection of a new base year for an excluded hospital or excluded hospital unit when it has experienced a break in providing patient services, or its participation in the Medicare program has been interrupted. We have also been asked to explain the difference in treatment for exclusion of new hospitals as compared to the treatment of new excluded hospital units.

Hospitals have used the provisions of § 413.40(b)(2) to argue for use of later 12-month cost reporting periods for base years when the first 12-month cost reporting period is not followed immediately by another 12-month period. We recognize that the statute requires the target amount to be applied to 12-month cost reporting periods, or in the case of any hospital having a cost reporting period of other than a 12-month period, a 12-month period determined by the Secretary. Rather than either prohibiting cost reporting periods of other than 12-months' duration due to financial or administrative reasons or requiring that hospitals combine data from multiple cost reporting periods in order that the target rate-of-increase limits be applied on a 12-month basis, we believe it is more appropriate to continue to apply the rate-of-increase ceiling to all cost reporting periods, of whatever duration, beginning during each Federal fiscal year. Therefore, we proposed to revise section 413.40(b)(2) to clarify that ceilings would apply to any cost reporting period following a base period established under § 413.40(b)(1) that began on or after October 1, 1982, or, if later, after the hospital's exemption from the target amount expires unless the exception provided in § 413.40(b)(3) applies to such periods that are shorter than 12 months duration.

An excluded hospital or hospital unit may leave the Medicare program due to temporary closure or termination of its provider agreement. Questions have arisen regarding whether there is a need to establish a new base period or whether a "new provider" exemption period is available in those cases. In order to avoid such confusion, we proposed to revise § 413.40(b)(1) by deleting the word "initial" in the first sentence. We proposed to include a provision that the ceiling, once established, remains applicable to an excluded hospital unit or hospital regardless of intervening cost reporting periods during which the excluded hospital or hospital unit may not be subject to its target amount as a result of other provisions of the law or regulations, or nonparticipation in the Medicare program. This clarification is needed due to the number of excluded hospitals and particularly distinct part units that may be excluded one year, subject to the prospective payment system in a subsequent year (owing, for example, to failure to continue to meet all the criteria for exclusion), and then excluded again in the next year. Such fluctuation from excluded status to prospective payment system status and back again is not considered sufficient reason to establish a new base period.

The authority to establish distinct part units of hospitals is provided for under section 1886(d)(1)(B)(iv) of the Act. Regulations specifically setting forth criteria for establishing distinct part units are contained in §§ 412.25 through 412.29 and 412.32. Distinct part units are excluded from the prospective payment system and are subject to the ceiling on the rate of hospital cost increases. Due to the fact that a majority of the distinct part units was created as a result of the prospective payment system, many hospitals have requested exemptions for newly created distinct part units as new hospitals under § 413.40(f)(1). In that section, a new hospital is defined as a "* * * a provider of inpatient hospital services that has operated as the type of hospital for which HCFA granted it approval to participate in the Medicare program, under present or a previous ownership, or both, for less than three full years."

A distinct part unit is not equivalent to a hospital within the meaning of the regulations. A distinct part unit is

basically a subprovider within a hospital for which the hospital has decided to separately report costs. Unless the hospital as a whole is new within the meaning of § 413.40(f)(1), a distinct part unit within a hospital would not qualify for an exemption under § 413.30(f).

The base period established under § 413.40(b)(1) for a newly established distinct part unit is the first 12-month cost reporting period for which the unit was approved as meeting the requirements necessary to be an excluded distinct part unit and costs of the unit were reported separately to Medicare. As a result of the unique situation created by the establishment of distinct part units, we proposed to modify § 413.40(f) to specifically state that a distinct part unit does not qualify for an exemption under the rate of increase ceiling provision as a new hospital.

Comment: One commenter suggested that the provision in section 1886(b)(4)(A) of the Act that provides authority to grant exceptions, exemptions, and adjustments could be used to allow for new base periods and a three-year exemption for new units. The commenter believes that there are circumstances, such as change of ownership, under which a new base period should be used, and that units face the same start-up costs and other problems as do new hospitals.

Response: We believe the commenter does not recognize the context of section 1886(b)(4)(A) of the Act. That section gives administrative authority to make exceptions and adjustments to a hospital for either a subsequent cost reporting period or the base period, and to allow exemption from the target amount (that is, determination of a base period cost per case). Both actions presuppose that a base period is already determined. In any case, the requirement for establishing a base period only once under section 1886(b)(3)(A) of the Act is not modified. In our opinion, the authority to make such adjustments and exemptions strengthens the rationale that the Congressional intent in this statutory provision is to set the base year only once since either the target amount or allowable costs in a later period can be adjusted if circumstance arise like those pointed out by the commenter.

Additionally, we do not agree that a three-year exemption should apply to new units of previously operating hospitals as it does to new hospitals. These units do not face the same start-up cost problems or other difficulties that an entire new hospital would face. These units are created within the confines of already existing facilities that have usually provided the services before it was decided to separately report that operation. Thus, unit start-up costs cannot readily be compared to a fully new hospital's start-up costs. As another commenter pointed out, most hospitals now having distinct part units offered the services previously, and their organization as separate units reflects the need for identification for Medicare purposes rather than an expansion of services.

Comment: The one comment received on our proposal to clarify establishing the base year for hospitals and hospital units under the rate-of-increase ceiling rules supported our changes but asked for general reformation of the rate-of-increase system in light of the significant changes in programs, organizations, and treatment modes during the past six years.

Response: We believe that the system does provide adequate flexibility to consider and address fluctuations in the provider environment under the exception and adjustment provisions of the rate-of-increase ceiling rules. When events create cost distortions that render the target amount unresponsive to circumstances, the targets can be reviewed and, if warranted, adjustments can be made. We believe this process is working effectively, and that even as more types of excluded hospitals or excluded units are incorporated into the prospective payment system in the future, the target amount system will continue to be appropriate.

M. The Medicare Catastrophic Coverage Act of 1988

Under section 101(b) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360), which was enacted July 1, 1988, essentially unlimited inpatient hospital days will be available for Medicare beneficiaries effective for discharges occurring on or after January 1, 1989. (We note that the inpatient psychiatric day limitation is unchanged.) Before enactment of Pub. L. 100–360, a beneficiary was entitled to 90 days of inpatient hospital services during each spell of illness. In addition, a beneficiary could draw from a lifetime reserve of 60 days if that beneficiary's inpatient hospital days exceeded 90 days in a spell of illness. Previously, a hospital could bill the beneficiary or the beneficiary's third party insurer for inpatient hospital services furnished to a beneficiary whose inpatient hospital benefits were exhausted either before entering the hospital or, following admission, during the outlier portion of an inpatient stay (see § 412.42(e).

Hospitals and hospital associations expressed concern to Congress that they would be financially disadvantaged by not being permitted to bill beneficiaries or their third party insurers for inpatient hospital services that before enactment of Pub. L. 100–360 were not covered because beneficiaries had exhausted their inpatient hospital benefits. (These noncovered days were not reflected in the cost base used to establish the prospective payment rates and thus are not recognized in those rates.) Therefore, Congress provided, in section 104(c)(1) of Pub. L. 100–360, that the Secretary in establishing the prospective payment rates, outlier thresholds, and DRG weighting factors for FY 1989 must, to the extent the Secretary determines to be appropriate, take into consideration any reductions in payments by Medicare beneficiaries to prospective payment hospitals due to the elimination of a day limitation on inpatient hospital services caused by the provisions of section 101(b) of Pub. L. 100–360. In addition, section 104(c)(2) of Pub. L. 100–360 requires that, for cost reporting periods beginning on or after October 1, 1988, the Secretary, in increasing the target amounts for hospitals excluded from the prospective payment system, must, on a hospital-specific basis, take into consideration the same reduction in payments to excluded hospitals.

1. Prospective Payment System Hospitals

We have determined that the prospective payment system will automatically adjust to the expansion of inpatient hospital benefits under Pub. L. 100–360. This is because increased payments will occur automatically as DRG payments are made for entire stays, including the outlier portions thereof, that previously would not have been covered due to a beneficiary's exhaustion of covered inpatient hospital days.

The following chart compares the prospective payments that hospitals receive before and after implementation of catastrophic coverage:

Situation	Pre-Catastrophic	Post-Catastrophic
Beneficiary exhausts inpatient hospital benefits prior to entering hospital.	No DRG payment.. No outlier payment.. Ancillary services are covered and billable payments under Part B for Part B enrollees.	No exhaustion of benefits: Hospital will receive regular DRG payment plus any applicable outlier payment.

Situation	Pre-Catastrophic	Post-Catastrophic
Beneficiary has at least one covered day remaining upon admission to the hospital, but exhausts inpatient hospital benefits while in the hospital.	Regular DRG payment made.. Outlier payments made only for covered outlier days. Ancillary services for noncovered outlier days are covered and billable under Part B for Part B enrollees.	No exhaustion of benefits: Hospital will receive regular DRG payment plus any applicable outlier payments for the balance of the stay.

Thus, as demonstrated above, the prospective payment system will automatically expand to reflect the additional payments for previously noncovered stays and noncovered days of a stay. Aggregate payments to hospitals will automatically reflect changes in the volume of Medicare discharges resulting from the elimination of the day limitation on inpatient hospital benefits, just as is currently the case. The additional discharges occurring as a result of the expansion of benefits will be covered and paid for automatically as are all other discharges under the prospective payment system. Hence, we have determined that no adjustment to the standardized payment amounts is necessary to accommodate the additional discharges furnished to Medicare beneficiaries who previously would have been financially liable for such care because they had exhausted their Medicare inpatient hospital benefits prior to admission.

On the other hand, there will be additional days of inpatient care—those occurring during the outlier portion of a hospital stay—for which the hospital would previously have been permitted to bill beneficiaries because such care was not reflected in the data base used to establish the prospective payment rates. Because such care will, in general, be covered after January 1, 1989, it is necessary to make an adjustment to the prospective payment system in order to ensure that such care is financed out of additional Federal monies rather than through the updated standardized amounts and outlier funds.

Based on FY 1987 data currently available regarding noncovered days of hospital care furnished to Medicare beneficiaries under the existing benefit structure, we estimate that outlier payments for such days will be about one percent of total DRG payments. However, to reflect these additional payments by increasing the standardized amounts by one percent would then require that the outlier offsets to those rates or the outlier thresholds be increased to ensure that total outlier payments are between five and six percent of total DRG payments and do not exceed the outlier offset. Moreover, our current estimate is likely to be overstated to the extent that some proportion of hospital days will continue to be noncovered even after implementation of Pub. L. 100–360 for reasons other than the current limit on inpatient hospital benefits. Therefore, we have determined that it is inappropriate to incorporate an adjustment into the rates at the present time.

Instead, it is possible to estimate outlier payments and outlier offsets on the basis of days covered under the current inpatient benefit structure as reflected in the FY 1987 MEDPAR data base, knowing that the proportion of days eligible for outlier payments will increase as expanded coverage begins on January 1, 1989 and that a higher proportion of DRG payments will thus be attributable to outlier payments as a result of such expansion of benefits.

In light of the increases in the outlier thresholds that are already necessitated by the changes in outlier payment policy described in section V.E. of this preamble, we believe the latter approach is appropriate for FY 1989 and preferable to further possible increases in the outlier thresholds. Accordingly, while the outlier offsets to the standardized amounts average 5.2 percent for FY 1989, we expect that outlier payments will comprise about 6.2 percent of total DRG payments during that same year. This inequality constitutes our adjustment to account for the reductions in beneficiary payments to prospective payment hospitals owing to the elimination of the day limitation on inpatient hospital services provided for in section 101(b) of Pub. L. 100–360.

The adjustment described above eliminates the need to increase the prospective payment rates at present. Moreover, the DRG relative weights are already based on the average total charges, rather than average covered charges, for all cases in each DRG. Consequently, the weighting factors established in accordance with the methodology described in section III.C. of this preamble contain no distortions resulting from the potentially different incidence across DRGs of inpatient hospital care furnished to beneficiaries who have exhausted their inpatient hospital benefits. Hence, no adjustment to the relative weights is needed to take into account the elimination of the day limitation on inpatient hospital care resulting from implementation of Pub. L. 100–360.

In conclusion, in order to ensure that payment for additional days of care resulting from implementation of Pub. L. 100–360 reflects new funds and not merely a redistribution of the same funds that would have been paid out prior to the implementation of Pub. L. 100–360, we have used only currently covered days and covered charges in modeling our payment simulations for purposes of establishing outlier thresholds, despite the fact that effective January 1, 1989 essentially all inpatient hospital days and charges will be covered. This approach will prevent the outlier thresholds increasing to finance the additional outlier payments that will be made as a result of the expansion in benefits. This means that, to the extent that hospitals are furnishing care to patients who previously would have exhausted their inpatient hospital benefits, they will receive more outlier payments than we will account for in our outlier threshold simulations.

We note that the prospective payment rates reflect total payment due a hospital for a nonoutlier case. The rates themselves are not reduced by amounts paid or expected to be paid by beneficiaries for applicable deductible and coinsurance amounts, although payments due a hospital as a result of cost report settlement are reduced by deductible and coinsurance amounts paid by beneficiaries. Thus, to the extent that after implementation of the catastrophic coverage provisions, beneficiaries face fewer deductibles and no coinsurance for inpatient hospital stays, the prospective payments to which a hospital is entitled will be reduced by those smaller beneficiary liabilities and actual Medicare payments will increase.

2. Hospitals and Units Excluded from the Prospective Payment System

We will allow hospitals and hospital units excluded from the prospective payment system to apply for increases to their target rates to correct any distortion due to higher costs caused by the expansion of inpatient hospital benefits. We are revising § 413.40 to implement this policy. We note that this policy is an exception to our general rule, as discussed in detail in section II of this preamble and set forth in regulations at § 413.40(g) and (h), that excluded hospitals subject to the target rates may not receive exceptions or adjustments unless they actually exceed their target rates. The adjustment under

section 104(c)(2) of Pub. L. 100–360 will be available to any hospital that experiences a distortion due to increased costs caused by elimination of the inpatient entitlement limitation, whether or not the hospital actually exceeds its target rate. This is because any distortion will be due to the effect of section 104(c)(2) of Pub L. 100–360, and essentially is unrelated to the actions of any individual hospital—it is a circumstance that could potentially affect all hospitals to some degree.

As a result, we are adding a new paragraph (i) to § 413.40 of the regulations. The new provisions allow a hospital to request a target amount adjustment directly from its intermediary. The target amount will be adjusted for the impact of any reduction in Medicare payments that the hospital experienced because of the previous inpatient day benefit limitation. The adjustment will be based on the estimated incremental costs of care historically furnished to Medicare beneficiaries after they had exhausted benefits during an inpatient stay.

A hospital may request an adjustment from its intermediary after the effective date of this regulation (that is, October 1, 1988) but no later than 180 days after the closing date of the hospital's first cost reporting period beginning on or after October 1, 1988. In order for its request to be considered, a hospital must submit a written request for an adjustment to its target amount under authority of this provision along with the following supporting documentation:

- A statement from the hospital regarding whether it wishes the adjustment to be based on its historical experience in either its base year or its last cost reporting period beginning before October 1, 1988. (If this period is not of at least 12 months' duration, multiple consecutive cost reporting periods comprising at least 12 months must be used.)
- The hospital's cost report or reports for the period selected by the hospital to serve as the basis for the adjustment.
- Billing data for the period that serves as the basis for the adjustment documenting the following:

—The number of hospital inpatient days furnished to Medicare beneficiaries for which no payment was made because the beneficiary had exhausted Part A hospital benefits. (Excluded from the count are days for stays that were not covered in their entirety, since such stays will be paid as discharges after January 1, 1989.)

—The ancillary charges for services furnished on the days after the beneficiary had exhausted Part A hospital benefits, as counted above.

Upon receipt of a request for an adjustment by a hospital that supplies the required information, the intermediary will verify the data submitted by the hospital regarding beneficiary status and exhaustion of inpatient hospital entitlement. (Medical necessity of acute care for inpatient days following exhaustion of entitlement will be assumed.)

In order to adjust the target amount, the intermediary will—

- Estimate the total inpatient operating costs for services furnished to Medicare beneficiaries, including the costs of services furnished after a beneficiary had exhausted benefits;
- Take the ratio of the above-determined costs to the Medicare allowable inpatient operating costs for the period from which the provider's data is derived; and
- Apply this ratio to the otherwise applicable target amount for cost reporting periods beginning on or after October 1, 1988.

The intermediary will determine the amount of any appropriate adjustment and notify the hospital of its determination within 90 days of the date of receipt of the request.

The following example illustrates the target amount adjustment:

1. Medicare allowable inpatient operating costs in base year or last cost reporting period beginning before October 1, 1988	$600,000
2. Estimated routine costs of inpatient days furnished to Medicare beneficiaries after exhaustion of Part A hospital benefits: 50 days of care multiplied by $400 Medicare allowable inpatient operating cost per diem	$20,000
3. Estimated costs for ancillary services furnished after Medicare beneficiaries had exhausted Part A hospital benefits (estimated by applying departmental cost-to-charge ratios from the cost report to the ancillary charges)	$10,000
4. Incremental costs of care furnished to Medicare beneficiaries after exhaustion of Part A hospital benefits (Line 2 plus Line 3)	$30,000
5. Total inpatient operating costs for Medicare beneficiaries notwithstanding exhaustion of Part A hospital benefits (Line 1 plus Line 4)	$630,000
6. Ratio of total inpatient operating costs for Medicare beneficiaries to covered Medicare inpatient operating costs (Line 5 divided by Line 1)	1.05
7. Target amount applicable to cost reporting period beginning on or after October 1, 1988	$4,500.00
8. Adjusted target amount for cost reporting period beginning on or after October 1, 1988 (Line 6 multiplied by Line 7)	$4,725.00

VI. Other ProPAC Recommendations

As required by law, we reviewed the March 1, 1988 report submitted by ProPAC and gave its recommendations careful consideration in conjunction with the proposals set forth in the proposed rule. We also responded to the individual recommendations in that proposed rule. The comments we received on our treatment of the ProPAC recommendations are set forth below along with our responses to those comments. However, if we received no comments from the public concerning a ProPAC recommendation or our responses to that recommendation, we have not repeated the recommendation and response in the discussion below. Recommendations 1 through 5 concerning the update factors are discussed in Appendix B of this document. Recommendation 11 concerning sole community hospital criteria is discussed in section V.F. of this preamble. Recommendation 15 concerning recalibration of the DRG weights is discussed in section III.C. of this preamble, Recommendation 16 concerning improvements to DRG 468 is discussed in section III.B. of this preamble, and Recommendations 17 and 18 concerning payment for outlier cases are discussed in section V.E. of this preamble. The remainder of the recommendations are discussed below.

A. Adjustments to the Prospective Payment System Payment Formula

1. Capital Institutional Neutrality (Recommendation 7)

Recommendation: Until capital costs are incorporated into an all-inclusive prospective payment rate, the Secretary should provide supplemental payments to hospitals that have contracts with other facilities (for example, other hospitals and clinics) for capital costs incurred at those other facilities. Currently, Medicare does not pay for these costs.

Response in the Proposed Rule: We do not accept this recommendation. As we indicated in response to this recommendation last year (52 FR 18854, May 19, 1987), the prospective payment rates represent the full rebundled costs to hospitals of providing services. Under the prospective payment system, hospitals are responsible for the full costs of providing inpatient services.

whether they are furnished inhouse or by arrangement.

In developing the prospective payment rates, we incorporated all operating costs of providing services. We also included both the costs of purchased services performed outside the hospital and formerly billed separately by the supplier of services and the costs of services furnished "under arrangements," that is, where the services were furnished by an outside supplier, but billed by the hospital as Part A services. No attempt was made to distinguish operating and capital components of these services furnished by entities other than the hospital. A hospital's own direct costs are appropriately disaggregated into capital and operating costs. While there is a capital component to many items and services purchased by the hospital for use in patient care or provided under arrangements, the charges made for such services do not distinguish the capital from the operating component of such services. It was charges for purchased services that were used to establish the rebundling adjustment to the Federal rates and that were used by the intermediary as the basis for modifying base-year costs to incorporate the effect of the rebundling requirement in the hospital-specific rate. (No similar adjustment was necessary for services furnished "under arrangements" since the allowable costs of these services was already reflected in hospital cost reports used in determining the prospective payment rates.) Therefore, we believe the prospective payment rates already reflect the full costs of services, and that any additional amount to cover the capital costs of services provided outside the hospital would constitute a duplicate payment.

Comment: One commenter took issue with our rejection of ProPAC's recommendation that hospitals be paid an additional amount to cover the capital-related costs of services purchased by the hospital from outside vendors. The commenter noted that while the capital-related costs of services furnished to inpatients of one hospital by another hospital had been taken into account when costs were rebundled to calculate standardized amounts, this was not the case for services purchased from nonhospital suppliers.

Response: We have not been advised of any empirical evidence that hospitals now have any greater opportunity to purchase services that involve capital-related cost components than they had when the prospective payment rates were originally established. Since hospitals have always had and used such options, capital-related costs were included in charges for services obtained for inpatients in the prospective payment base year just as they are currently. These costs are, therefore, reasonably represented in the current prospective payment rates and were described in the documents explaining the construction of those rates (48 FR 39766; September 1, 1983 and 49 FR 326; January 3, 1984). Thus, contrary to ProPAC's and the commenters' allegations, the costs of the capital-related components of purchased services, including those purchased for nonhospital suppliers, are clearly reflected in the standardized amounts. In fact, to make supplemental payments for these capital costs as suggested, the standardized amounts would have to be reduced for those estimated supplemental payments to assure not only that total payments are not duplicated but, in addition, that the Medicare program is not actually providing an incentive for hospitals to purchase services for inpatients rather than securing the in-hospital capability to provide them when it's more efficient to do so.

In addition to these specific concerns related to capital items, this approach could be used to lobby for additional or supplemental payments for any new service, product, or treatment that did not exist in the base year. Indeed, the same argument has been presented with respect to new diagnostic tools and costly medications that were not available in the base year. We believe that making supplemental or additional pass-through payments in addition to those specifically provided under applicable statutes is antithetical to the intent of the law in establishing a standard price for similar cases, regardless of the specific services furnished to individual patients or the manner in which the hospital obtains those services.

2. Labor Market Area Definitions (Recommendation 9)

Recommendation: ProPAC states that it continues to believe that the current hospital labor market area definitions are seriously flawed and that they can be improved substantially with currently available data. ProPAC recommends that the Secretary should adopt improved definitions of hospital labor market areas. For urban areas, the Secretary should modify the current MSAs to distinguish between central and outlying areas. The central areas should be defined using urbanized areas as designated by the Census Bureau. For rural areas, the Secretary should distinguish between urbanized rural counties and other rural counties within each State. Urbanized rural counties should be defined as counties with a city or town having a population of 25,000 or greater. The implementation of improved definitions should not result in any change in aggregate hospital payments. Furthermore, these definitions should not affect the assignment of hospitals to urban or rural areas for purposes of determining standardized amounts.

Response in the Proposed Rule: We appreciate the effort and analysis that ProPAC has devoted to trying to better define labor market areas for purposes of applying the wage index. However, we continue to believe that defining labor market areas on the basis of urbanized and nonurbanized areas within areas classified as urban and rural would create administrative problems. In our response to this same recommendation in the April 1, 1987 ProPAC report for FY 1988 (52 FR 22093, June 10, 1987), we raised a number of concerns that still trouble us.

First, we continue to be concerned with the Census Bureau's definition of urbanized areas. Because the boundaries are based on population density and defined to the census tract level, urbanized areas follow boundaries that do not coincide with street addresses, zip codes, or other identities with which hospitals, intermediaries or we are routinely familiar. In addition, the actual boundaries of urbanized areas are volatile and subject to dramatic change where extensive development occurs. However, the Census Bureau routinely draws the boundaries for urban areas only once each decade following the decennial census. Hence, we would anticipate numerous cases in which hospitals would argue that their location has changed from a nonurbanized area to an urbanized area because of development since the last census. We have already received a great deal of criticism from hospitals on the use of dated census information with regard to our implantation of section 1886(d)(8)(B) of the Act (the reclassification of certain rural areas). This boundary issue, along with the increase in boundaries resulting from classifying hospitals according to four labor market area classifications, would multiply the number of cases in which hospitals perceive that they are being disadvantaged.

Second, we continue to have concern regarding the accuracy with which hospitals would be assigned to urbanized areas. As we noted in the

September 1, 1987 final rule (52 FR 33055), the census tract is not a part of the data we routinely receive from hospitals, nor is it data with which hospitals or intermediaries are familiar. To assign hospitals to classifications below the county level would require this information.

Third, while ProPAC's suggested refinements to labor market areas would most likely recognize greater wage variations than are currently indicated, we note that these wage differentials are highly correlated with and thus are already taken into account in some degree through the indirect medical education and disproportionate share adjustments for hospitals, and the special treatment for rural referral centers. In addition, constructing the wage index for labor market areas as redefined by ProPAC would dictate recalculation of the indirect medical education and disproportionate share adjustments in order to ensure that we would not be aggravating payment disparities among groups of hospitals. Such recalculation would require legislation.

It is not clear that the labor market areas recommended by ProPAC are any more reflective of the markets in which hospitals compete for labor than the current system. We agree that use of more labor market areas would result in a wage index with greater explanatory power with regard to hospital wage levels. In fact, maximum explanatory power would be achieved by using a hospital-specific wage index. However, under the prospective payment system, we are concerned with hospital level cost differences rather than wage level differences. It is anticipated under the prospective payment system that hospitals with high wages substitute nonlabor inputs for labor inputs in order to keep overall costs down.

We recognize that the current system of MSAs used for defining labor market areas has shortcomings. We look forward to continuing to work with ProPAC to develop a classification methodology that better reflects labor market areas and that overcomes the administrative problems discussed above.

Comment: We received comments expressing concern that the Secretary did not accept the ProPAC recommendation to revise labor market area definitions for use in establishing the wage index. One commenter asserted that revising labor market area definitions to take into account urban core and ring differences and urbanized and nonurbanized rural area differences were both feasible and effective in reducing variance. In support of the contention that it is feasible to distinguish hospital urbanized and nonurbanized area locations, the commenter supplied a step-by-step methodology for determining whether hospitals are located within urbanized areas.

Response: We appreciate the commenter's constructive suggestions as to how one can classify hospitals on the basis of location in an urbanized area. However, we still do not accept the recommendation to define labor market areas below the county level. Our policy is that such further subclassification of hospitals would be confusing and difficult to administer, and would likely create numerous situations in which hospitals perceive that they have been disadvantaged. Contrary to the assertion of the commenter, we do not believe the benefits of adopting revised labor market definitions would far outweigh the disadvantage. While we acknowledge that the system of defining labor market areas on the basis of MSA location has shortcomings, the payment effects of these shortcomings are largely overcome for hospitals in the urban core by the indirect medical education and disproportionate share hospital adjustments. Nonetheless, we will further analyze the ProPAC recommendations during the coming year and we will study whether any changes are appropriate.

B. Quality of Care

Evaluation of Peer Review Organization (PRO) Review and Quality of Care (Recommendation 12)

Recommendation: The Secretary should review and synthesize the findings of the PROs over the past four years. A major comprehensive evaluation of PROs and their impact on quality of care should follow. The evaluation should focus on issues of access to and use of services, patterns of denials, and instances of poor quality care. Issues related to expenditure control and efficient administration of PRO contract requirements should be secondary to broader quality-of-care evaluative goals. The assessment should also evaluate and compare criteria used to make judgments about when care is appropriate. Finally, this major study should assist the Secretary in developing and implementing mechanisms for expanded PRO review of episodes of care that are patient-oriented rather than institution-oriented.

Response in the Proposed Rule: While we agree conceptually with the purpose of a longitudinal study of PRO review findings, we do not believe that such a study is feasible given the transitional nature of the PRO program during the targeted time period. The PRO program was implemented simultaneously with the prospective payment system in 1984, and, in 1986, its focus changed from utilization review to quality review.

Major changes have been made to improve the review methodology both through our program policies and as a result of legislative mandates. As a result, we do not have a consistent data base on which to perform longitudinal analysis. In addition, we have not collected data on individual case reviews; we have summary data only. This further limits our data analysis techniques. In the next PRO contract scope of work, we are implementing a new data collection system that will include disaggregated data, which will significantly improve our ability to perform a longitudinal analysis.

We have contracted with the Institute of Medicine (IOM) to assess the current state of the art in quality review. IOM will evaluate the procedures, costs, and adequacy of quality assurance mechanisms and examine the availability of reliable and clinically valid criteria and standards to judge quality of care. A comprehensive report of the IOM study outlining findings, conclusions, and recommendations will be prepared for Congress.

The second part of the ProPAC recommendation concerns the evaluation of PRO criteria. ProPAC believes that the Secretary should review the development, use, and application of criteria related to medical necessity and appropriateness.

All PROs are required to submit their criteria to HCFA 45 days before implementation and to submit any changes to these criteria 30 days before implementation. All criteria are then reviewed by HCFA central office and regional office medical personnel. After this review, the strengths and weaknesses of the criteria are discussed with the PROs, and the PROs are then required to make appropriate revisions to these criteria. In addition, both the HCFA regional offices and an independent contractor, SysteMetrics, Inc. (the so called "SuperPRO") review a sample of PRO cases using the PRO's approved criteria to assure that the criteria are applied appropriately and that the medical determinations are accurate. In addition, over the next year, the "SuperPRO" will analyze the PRO criteria and make recommendations for changes.

We also agree that the PRO program should focus on outcomes of care. To that end, we are developing uniform, accurate screening procedures using

clinical data abstracted from the individual medical records. Under this process, we will review an array of diagnostic information, including objective positive physician findings and information on the course of hospitalization. This will permit assessment of the severity of illness at admission and the care a person receives while a patient, as well as monitoring the outcome. The data generated from this process will be used to systematically identify for indepth review physicians and providers with aberrant practice patterns.

We are in agreement with ProPAC s recommendation that the appropriate mix of cases in all areas should be examined along with the number of reviews and type of tools needed to identify quality problems. A number of activities have taken place in the past year in this regard. A zero based analysis of PRO reviews was performed prior to the development of the new PRO contract scope of work (which is effective for contracts entered into or renewed on or after October l, 1988) to refine the mix of reviews in order to assure that activities are focused appropriately. In addition, we convened a task force composed of PRO and HCFA representatives that further refined and improved the HCFA inpatient hospital generic quality screens. We believe that the improved quality screens will improve the identification of quality problems. We also convened a task force to develop a model quality intervention plan to ensure that the PROs will take more consistent actions to improve quality of care when problems are identified.

In the new PRO contract scope of work, PROs will review a sample of posthospital care furnished before a readmission that occurred within 31 days of discharge from a hospital. To make that review more meaningful, work groups were convened in early 1987 to develop generic quality screens to help in the identification of quality problems in skilled nursing facilities, home health care, and outpatient surgery areas.

Also, we are in the process of providing some PROs with added funds to conduct pilot studies. These studies will test varying review methodologies in an attempt to identify the most efficient and effective way to identify cases for review. Examples of the areas that will be studied are review of short stays, deaths within 20 days of hospital discharge, and services furnished by skilled nursing facilities and home health agencies.

Comment: One commenter stated that the Secretary has rejected ProPAC's call for review and synthesis of PRO findings and a comprehensive evaluation of PROs and their impact on quality of care. The commenter stated that the Secretary supported this position by citing a series of ongoing activities and the lack of a consistent data base for longitudinal analysis. While the commenter agrees that there are limitations in available data, the commenter does not believe that consistent longitudinal data are a prerequisite to the type of evaluation that was recommended.

The commenter stated that other activities, such as those being undertaken on a pilot basis, or between HCFA and individual PROs, or through the "SuperPRO," do not constitute acceptable substitutes for a major evaluation of the results of the PRO program. The commenter expressed belief that such an evaluation would assist those undertaking the IOM study cited by the Secretary. For these reasons, the commenter continues to believe that the Secretary should undertake (or contract for) a major evaluation of findings concerning the PRO program.

Response: We continue to believe that a lack of longitudinal data does prevent us from making the kind of evaluation requested. We also believe that data that measures outcomes of encounters with the health care delivery system are the true measure of the effectiveness of PROs. Realizing this, we set about defining our data needs. As a result, we are in the process of conducting studies to determine which clinical data should be collected to enable us to measure these outcomes over time. The resultant data would also be used by PROs to identify potential problem cases and aberrant practice patterns, which are the objectives of the PRO program.

C. Patient Classification and Case-Mix Measurement Coding Improvements (Recommendation 14)

Recommendation: The Secretary should formalize a more timely, systematic, and consultative approach to consider ICD–9–CM codes for new diagnoses, procedures, devices, and other treatments. When new codes are considered and created, both coding specialists and clinical specialists should be involved. ProPAC continues to believe that the Secretary's guidelines prohibiting the use of Chapter 16 codes as principal diagnoses should be reviewed because the prohibition has, in some cases, impeded appropriate DRG assignment of important diagnoses. (Chapter 16 of the ICD–9–CM system is a compendium of symptoms, signs, ill-defined conditions, and abnormal findings of laboratory and investigative procedures. Chapter 16 rules contradict the usual guidelines of the ICD–9–CM coding system concerning the sequence of principal and secondary diagnoses.)

Response in the Proposed Rule: We disagree with ProPAC's assertion that the current system for coding changes is not timely, systematic, and consultative. Each fiscal year, we publish the process for coding changes and we request public comment concerning problems and recommendations. We also publish notices in the **Federal Register** to announce the time, place and proposed agenda for regularly scheduled public meetings concerning coding changes. During calendar year 1987, we held meetings in April, July, and December.

Prior to all public meetings, the ICD–9–CM Coordination and Maintenance Committee (the Committee) thoroughly researches the topics on the agenda. This committee is composed of individuals trained in the coding of medical records in addition to physicians, nurses, and others familiar with the Medicare prospective payment system. In addition to the thorough review by this committee, outside organizations are also contacted for consultation. At the public meetings, presentations may be given by qualified experts on particular topics of interest.

While this may appear to be a lengthy time process, we have received many public comments that the timeframes are not sufficient for hospitals to implement or adopt coding changes.

One of the reasons for length of time between meetings is to permit the public to provide additional comments on the proposals presented at the public meetings. In addition to those who regularly attend the public meetings, we also send summaries of the Committee meetings to an additional 200 organizations and individuals. Included among this group are coding specialists as well as physicians. As a result of this distribution, we receive additional comments from those unable to attend the meetings. While the last public meeting is held in December, written comments are accepted until January 31.

The time we allot to this process is necessary to permit us time to consider the volume of input from outside groups before we make a final decision on changing a code. To accurately edit, index, and print the errata for the three volumes of ICD–9–CM, we must have some lead time. In addition, final coding changes may necessitate changes in DRG classification that would require revisions in the Grouper program.

By statute, the prospective payment rates and update factors that are to be

effective for a given Federal fiscal year (that is, on or after October 1) must be published in the **Federal Register** by the preceding May 1 with 60 days allowed for public comment. Since coding changes affect the DRGs that are used in computing final payment for inpatient services, we must finalize coding changes before the May 1 publication date. In order to finalize changes by May 1, we begin formulation of the final proposed code revisions on February 1. By February 15, final clearance begins within HCFA and the National Center for Health Statistics (NCHS). Approval must be obtained by all relevant staff before submission to the HCFA Administrator and NCHS Director. By March 1, revisions have received final approval, and work is completed in April on the tabular and indexing of the Addendum that will contain the new and revised codes. Publication of the Addendum occurs sometime in August. The Addenda for FY 1986 and FY 1987 contained 50 new and revised codes and 100 new and revised codes, respectively.

A great deal of background work goes into a proposal before it is presented at a public meeting. The ICD–9–CM Coordination and Maintenance Committee thoroughly researches the topics on the agenda. This committee is composed of people trained in the coding of medical records in addition to physicians, nurses and others familiar with the prospective payment system. In addition to the review by this committee, technical advice is solicited from clinical specialists. Examples of groups who have provided technical advice include the American Society for Gastrointestinal Endoscopy, North American Society for Pacing and Electrophysiology, the National Association of Children's Hospitals and Related Institutions, and the National Association for Sleep Disorders. Physician specialists regularly attend the public meetings and make presentations on medical procedure and technology. The results are better revisions to the ICD–9–CM.

In its recommendation ProPAC noted what it considered to be two areas of continuing coding problems, acute myocardial infarctions (AMIs) and partial joint replacements.

We agree, with ProPAC, that problems still exist with the coding of AMIs. The diagnosis codes are contained in volumes 1 and 2 of the ICD–9–CM and therefore are the primary responsibility of NCHS. NCHS has been reviewing the problems with the codes throughout the year. Several proposals have been presented by the public and NCHS at the public meetings. However, the proposals have not adequately distinguished between patients admitted with an AMI and patients not admitted for treatment of an AMI but whose diagnosis is an AMI because of the "eight week rule." Under the eight week rule, a diagnosis of AMI must be coded under some circumstances if the patient has had an infarction within eight weeks of the admission.

HCFA will continue to work with NCHS to improve the guidelines and code definitions. Any comments from the public on improving Chapter 16 and any other coding questions concerning volumes 1 and 2 of ICD–9–CM should be sent to: Ms. Sue Meads, Co-Chairperson, ICD–9–CM Coordination and Maintenance Committee, National Center for Health Statistics, Room 2–19 Center Building, 3700 East-West Highway, Hyattsville, MD 20782.

We will also continue to examine the necessity of codes for partial joint replacements. Since this is an issue related to procedure codes within volume 3 of ICD–9–CM, HCFA has the lead responsibility for making any changes. This topic was on the agenda for the July meeting and will be addressed during the next year. Any concerns with the coding of procedures in volume 3 of the ICD–9–CM should be sent to: Ms. Patricia Brooks, Health Care Financing Administration, Office of Coverage Policy, Room 309, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comment: We also received comments on the process of code revisions by the Committee. All of these comments were supportive. Some commenters praised the clinicians who at the public meetings provided background information on the need for coding changes.

Two commenters qualified their statements with a request that the process become more timely. They specifically addressed the longstanding need for an improvement in the ICD–9–CM diagnoses codes for acute myocardial infarction (AMI). One commenter, ProPAC, pointed out that although deficiencies in the AMI codes had been on the committee's agenda since July 1987, it will be October 1989 before new codes could be implemented and June 1991 before charge data are available for analysis.

Response: Officials of HCFA and NCHS have met to specifically address the development of new or expanded diagnoses codes for acute myocardial infarction (AMI) by the Coordination and Maintenance Committee. We believe that the cooperation demonstrated by these representatives will result in a viable proposal for new codes at the next public meeting in December 1988. With the audience's input and written follow-up, the AMI codes could be implemented in October 1989. We anticipate that this will result in additional improvements through the conforming changes, which will be made to the guidelines, and indexing for the use of all diagnoses codes in the Circulatory System chapter of ICD–9–CM. Optimally, all changes would be made at the same time to ensure the continuity of the data over time.

VII. Other Required Information

A. Effective Dates

The effective date of this final rule (including the addendum and appendixes) is October 1, 1988. The following changes are applicable October 1, 1987: §§ 412.63 (c)(6) and (f) and 413.40(c)(3)(i)(C). The following changes are applicable beginning with cost reporting periods beginning on or after October 1, 1987: §§ 412.73(c)(5)(i) and 412.92(f). The following changes are applicable for discharges occurring on or after April 1, 1988: §§ 412.70 (c)(6) and (d)(5), 412.82(d), 412.84(k), and 412.96 (b)(1)(ii) and (d). The following changes are applicable beginning with cost reporting periods beginning on or after October 1, 1988: §§ 412.73(c)(5)(ii) and 413.40 (c)(3)(i)(D) and (h)(3). The following changes are applicable for discharges occurring on or after November 1, 1988: §§ 412.80(a), 412.82(c), 412.84 (a), (g), (h), and (j), and 412.86.

B. Waiver of 30-Day Delay in the Effective Date

We ordinarily provide for a 30-day delay in the effective date of a substantive final rule. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date. As discussed in detail above, we published a proposed rule on May 27, 1988 that included all the issues in this final rule except for one issue raised by Pub. L. 100–360, which was enacted on July 1, 1988. We provided for a 60-day period for public comment. In developing this final rule, we considered all comments received in response to that proposed rule.

The regulations published in final in this rule implement specific statutory provisions and most of the provisions in these regulations are applicable to discharges occurring on or after October 1, 1988 as required by law. In general, these regulations are beneficial to most

of the prospective payment hospitals, as well as to hospitals and hospital units excluded from the prospective payment system. If we were to provide for a 30-day delay in the effective date of these changes, hospitals would be deprived of the full benefits of this final rule. Thus, a 30-day delay in the effective date would be contrary to the public interest. For these reasons, we find good cause to waive the normal 30-day delay in the effective date.

C. Waiver of Prior Public Comment Period

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** for a substantive rule to provide a period for public comment. However, we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest.

As discussed in detail above, we published a proposed rule on May 27, 1988 that included all the issues in this final rule except for one issue raised by Pub. L. 100–360, which was enacted on July 1, 1988. As explained in detail in section V.M. of this preamble, above, section 104(c)(1) of Pub. L. 100–360 provided that the Secretary in establishing the prospective payment rates, outlier thresholds, and DRG weighting factors for FY 1989 must, to the extent the Secretary determines to be appropriate, take into consideration any reductions in payments to prospective payment hospitals due to the elimination of a day limitation on inpatient hospital services caused by the provisions of section 101(b) of Pub. L. 100–360. In addition, section 104(c)(2) of Pub. L. 100–360 requires that, for cost reporting periods beginning on or after October 1, 1988, the Secretary, in increasing the target amounts for hospitals excluded from the prospective payment system, must take into consideration, on a hospital-specific basis, the same reduction in payments to excluded hospitals.

In addition, section 411(b)(4) of Pub. L. 100–360 amended section 1886(d)(8)(B)(ii) of the Act and thereby revised a provision of the proposed rule concerning the criteria under which hospitals in certain rural counties may be deemed to be located in an adjacent urban area. This provision is also effective for discharges occurring on or after October 1, 1988.

The regulations published in final in this rule implement these two statutory provisions as Congress intended. The changes made by section 411(b)(4) of Pub. L. 100–360 are technical in nature and we are merely conforming the text of the regulations to the new statutory language. The changes made to implement the provisions of section 104 (c)(1) and (c)(2) of Pub. L. 100–360 are effective on October 1, 1988 and result in increased payments to prospective payment hospitals and allow hospitals excluded from that system to request a special adjustment to their target amounts under the rate-of-increase ceiling. For these reasons, we believe that it is both unnecessary and contrary to the public interest to delay implementation of the statutory provisions until the process of publishing both proposed and final rules can be completed. Therefore, we find good cause to waive proposed rulemaking and to issue these regulations as final. Nonetheless, we are providing a 60-day period for public comment only on these issues as indicated in the beginning of this preamble.

Because of the large number of items of correspondence we normally receive concerning regulations, we are not able to acknowledge or respond to the comments individually. However, if we decide that changes are necessary as a result of our consideration of timely comments, we will issue a final rule and respond to the comments in the preamble of that rule.

D. Paperwork Reduction Act

This final rule does not impose information collection requirements. Consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 412

Health facilities, Medicare.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare.

42 CFR Chapter IV is amended as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subchapter B—Medicare Programs

I. Part 405, Subpart C is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart C—Exclusions, Recovery of Overpayments, Liability of a Certifying Officer and Suspension of Payment

A. The authority citation for Subpart C continues to read as follows:

Authority: Secs. 1102, 1815, 1833, 1842, 1862, 1866, 1870, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l, 1395u, 1395x, 1395y, 1395cc, 1395gg, 1395hh, and 1395pp) and 31 U.S.C. 3711.

B. In § 405.310, paragraph (m)(2) is revised to read as follows:

§ 405.310 Particular services excluded from coverage.

* * * * *

(m) *Services to hospital inpatients.*—

* * * * *

(2) *Exception.* Physicians' services that meet the criteria of § 405.550(b) for payment on a reasonable charge basis, and services of an anesthetist employed by a physician that meet the conditions of § 405.553(b)(4), are not excluded.

* * * * *

II. Part 412 is amended as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

A. The authority citation for Part 412 continues to read as follows:

Authority: Secs. 1102, 1122, 1815(e), 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1320a–1, 1395g(e), 1395hh, and 1395ww).

B. In Subpart A, § 412.2, paragraphs (c)(1) and (c)(3) are amended by changing "413.55(b)" to "413.53(b)," the introductory text in paragraph (e) is republished, and a new paragraph (e)(6) is added to read as follows:

Subpart A—General Provisions

§ 412.2 Basis of payment

* * * * *

(e) *Additional payments to hospitals.* In addition to payments based on the prospective payment rates, hospitals will receive payments for the following:

* * * * *

(6) Serving a disproportionate share of low-income patients, as provided in § 412.106.

C. Subpart C is amended as follows:

Subpart C—Conditions for Payment Under the Prospective Payment System

1. In § 412.46, paragraph (a) is revised; paragraphs (b), (c), and (d) are redesignated as paragraphs (c), (d), and (e), respectively; a new paragraph (b) is added; and newly redesignated paragraph (c) is revised to read as follows:

§ 412.46 Medical review requirements; DRG validation.

(a) *Physician attestation.* The attending physician must, shortly before, at, or shortly after discharge (but before a claim is submitted), attest to the principal diagnosis, secondary diagnoses, and names of major procedures performed. The information must be in writing in the medical record, and, except as provided in paragraph (b) of this section, the physician must sign the statement. Below the diagnostic and procedural information, and on the same page, the following statement must immediately precede the physician's dated signature:

"I certify that the narrative descriptions of the principal and secondary diagnoses and the major procedures performed are accurate and complete to the best of my knowledge."

(b) *Alternative signature requirement.* The attending physician's signature, along with the other information required in paragraph (a) of this section, may be provided by electronic means through a hospital data system if the intermediary determines that the hospital data system meets the guidelines established by HCFA.

(c) *Physician acknowledgement.* In addition, when the claim is submitted, the hospital must have on file a current signed and dated acknowledgement from the attending physician that the physician has received the following notice:

"Notice to Physicians: Medicare payment to hospitals is based in part on each patient's principal and secondary diagnoses and the major procedures performed on the patient, as attested to by the patient's attending physician by virtue of his or her signature in the medical record. Anyone who misrepresents, falsifies, or conceals essential information required for payment of Federal funds, may be subject to fine, imprisonment, or civil penalty under applicable Federal laws."

The acknowledgement must have been completed within the year prior to the submission of the claim.

* * * * *

2. Section 412.50(b) is revised to read as follows:

§ 412.50 Furnishing of inpatient hospital services directly or under arrangements.

* * * * *

(b) HCFA does not pay any provider or supplier other than the hospital for services furnished to a beneficiary who is an inpatient, except for physicians' services reimbursable under § 405.550(b) of this chapter and services of an anesthetist employed by a physician reimbursable under § 405.553(b)(4) of this chapter.

* * * * *

D. Subpart D is amended as follows:

Subpart D—Basic Methodology for Determining Federal Prospective Payment Rates

1. Section 412.62 is amended by republishing the introductory texts of paragraph (f)(1), and (f)(1)(ii), and revising paragraphs (f)(1)(ii)(B) and (k) to read as follows:

§ 412.62 Federal rates for fiscal year 1984.

* * * * *

(f) *Geographic classifications.* (1) For purposes of paragraph (e) of this section, the following definitions apply:

* * * * *

(ii) The term "urban area" means—

* * * * *

(B) The following New England counties, which are deemed to be parts of urban areas under section 601(g) of the Social Security Amendments of 1983 (Pub. L. 98–21, 42 U.S.C. 1395ww (note)): Litchfield County, Connecticut; York County, Maine; Sagadahoc County, Maine; Merrimack County, New Hampshire; and Newport County, Rhode Island.

* * * * *

(k) *Adjusting for different area wage levels.* HCFA adjusts the proportion (as estimated by HCFA from time to time) of Federal rates computed under paragraph (j) of this section that are attributable to wages and labor-related costs, for area differences in hospital wage levels by a factor (established by HCFA) reflecting the relative hospital wage level in the geographic area (that is, urban or rural area as determined under the provisions of paragraph (f) of this section) of the hospital compared to the national average hospital wage level.

2. Section 412.63 is amended by revising paragraph (b)(3) and by adding new paragraphs (b)(4) and (b)(5); revising paragraph (c)(4) and adding a new paragraph (c)(6); revising paragraphs (f) and (g); redesignating paragraphs (h), (i), and (j) as paragraphs (i), (j), and (k), respectively; adding a new paragraph (h); revising the introductory texts of newly redesignated paragraphs (j) and (j)(1) and paragraph (j)(1)(i); and revising newly redesignated paragraph (k) to read as follows:

§ 412.64 Federal rates for fiscal years after Federal fiscal year 1984.

* * * * *

(b) *Geographic classifications.* * * *

(3) For discharges occurring on or after October 1, 1988, a hospital located in a rural county adjacent to one or more urban areas is deemed to be located in an urban area and receives the Federal payment amount for the urban area to which the greater number of workers in the county commute if the rural county would otherwise be considered part of an urban area, under the standards for designating MSAs or NECMAs if the commuting rates used in determining outlying counties 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 central counties of all adjacent MSAs or NECMAs. These EOMB standards are set forth in the notice of final standards for classification of MSAs published in the **Federal Register** on January 3, 1980 (45 FR 956), and available from HCFA, East High Rise Building, Room 132, 6325 Security Boulevard, Baltimore, Maryland 21207.

(4) For purposes of this section, any change in an MSA of NECMA designation is recognized on the October 1 following the effective date of the change.

(5) For discharges occurring on or after October 1, 1988, for hospitals that consist of two or more separately located inpatient hospital facilities the national adjusted prospective payment rate is based on the geographic location of the hospital facility at which the discharge occurs.

(c) *Updating previous standardized amounts.* * * *

(4) For fiscal year 1987 through 1990 HCFA standardizes the average standardized amounts by excluding an estimate of the payments for hospitals that serve a disproportionate share of low-income patients.

* * * * *

(6) For fiscal year 1988 and thereafter, HCFA computes average standardized amounts for hospitals located in large urban areas, other urban areas, and rural areas. The term "large urban area" means an MSA with a population of more than 1,000,000 or an NECMA, with a population of more than 970,000 based on the most recent available population data published by the Bureau of the Census.

* * * * *

(f) *Applicable percentage change for fiscal year 1988.* (1) The applicable percentage change for fiscal year 1988 is—

(i) For discharges occurring on or after October 1, 1987 and before November 21, 1987, zero percent;

(ii) For discharges occurring on or after November 21, 1987 and before April 1, 1988, 2.7 percent; and

(iii) For discharges occurring on or after April 1, 1988 and before October 1, 1988—

(A) 3.0 percent for hospitals located in rural areas;

(B) 1.5 percent for hospitals located in large urban areas; and

(C) 1.0 percent for hospitals located in other urban areas.

(2) For purposes of determining the standardized amounts for discharges occurring on or after October 1, 1988 (for Federal fiscal year 1989), the applicable percentage change for fiscal year 1988 is deemed to have been—

(i) 3.0 percent for hospitals located in rural areas;

(ii) 1.5 percent for hospitals located in large urban areas; and

(iii) 1.0 percent for hospitals located in other urban areas.

(g) *Applicable percentage change for fiscal year 1989.* The applicable percentage change for fiscal year 1989 is the percentage increase in the market basket index (as described in § 413.40(c)(3)(ii))—

(1) Minus 1.5 percentage points for hospitals located in rural areas;

(2) Minus 2.0 percentage points for hospitals in large urban areas; and

(3) Minus 2.5 percentage points for hospitals in other urban areas.

(h) *Applicable percentage change for fiscal year 1990 and following.* The applicable percentage change for FY 1990 and each subsequent fiscal year for hospitals in all areas is the percentage increase in the market basket index (as described in § 413.40(c)(3)(ii)).

* * * * *

(j) *Computing Federal rates for large urban, other urban, and rural hospitals.* For each discharge classified within a DRG, HCFA establishes for the fiscal year a national prospective payment rate and a regional prospective payment rate, for each region, as follows:

(1) For hospitals located in a large urban or other urban area in the United States or that region respectively, the rate equals the product of—

(i) The adjusted average standardized amount (computed under paragraph (c) of this section) for the fiscal year for hospitals located in a large urban or other urban area in the United States or in that region; and

* * * * *

(k) *Adjusting for different area wage levels.* HCFA adjusts the proportion (as estimated by HCFA from time to time) of Federal rates computed under paragraph (j) of this section that are attributable to wages and labor-related costs for area differences in hospital wage levels by a factor (established by HCFA) reflecting the relative hospital wage level in the geographic area (that is, urban or rural area as determined under the provisions of paragraph (b) of this section) of the hospital compared to the national average hospital wage level.

D. Subpart E is amended as follows:

Subpart E—Determination of Transition Period Payment Rates

1. Section § 412.70 is amended by revising paragraph (c)(5), adding a new paragraph (c)(6), revising paragraph (d)(4), and adding a new paragraph (d)(5) to read as follows:

§ 412.70 General description.

* * * * *

(c) *Amount of blended portions.*

* * * * *

(5) The appropriate Federal prospective payment rate is a combined regional and national rate and changes with the Federal fiscal year. For Federal fiscal year 1984, which begins October 1, 1983, the Federal prospective payment rate is 100 percent regional. For Federal fiscal years 1985 and 1986, which begin October 1, 1984 and October 1, 1985, respectively, the combined rate is 75 percent regional and 25 percent national. For Federal fiscal year 1987, which begins October 1, 1986, the combined rate is 50 percent regional and 50 percent national. Effective with Federal fiscal year 1988, which begins October 1, 1987, the Federal prospective payment rate is 100 percent national except as provided in paragraph (c)(6) of this section.

(6) For discharges occurring on or after April 1, 1988 and before October 1, 1990, payments to a hospital are based on the greater of the national average standardized amount or the sum of 85 percent of the national average standardized amount and 15 percent of the average standardized amount for the region in which the hospital is located.

* * * * *

(d) *Blended portions for new hospitals.*

* * * * *

(4) For discharges occurring on or after October 1, 1987, the prospective payment rate equals the appropriate Federal national rate except as provided in paragraph (d)(5) of this section.

(5) For discharges occurring on or after April 1, 1988 and before October 1, 1990, payments to a hospital are based on the greater of the national average standardized amount or the sum of 85 percent of the national average standardized amount and 15 percent of the average standardized amount for the region in which the hospital is located

2. Section 412.73 is amended by revising paragraph (c)(5) and adding a new paragraph (c)(6) to read as follows:

412.73 Determination of the hospital specific rate

* * * * *

(c) *Updating base-year costs*

* * * * *

(5) *For Federal fiscal year 1988.* (i) For purposes of determining the prospective payment rates for sole community hospitals under § 412.92(d) for cost reporting periods beginning in Federal fiscal year 1988 (that is, on or after October 1, 1987 and before October 1, 1988), the base-year cost per discharge is undated as follows:

(A) for the first 51 days of the hospital's cost reporting period, by zero percent.

(B) For the next 132 days of the hospital's cost reporting period, by 2.7 percent.

(C) For the remainder of the hospital's cost reporting period, by—

(*1*) 3.0 percent for hospitals located in rural areas;

(*2*) 1.5 percent for hospitals located in large urban areas; and

(*3*) 1.0 percent for hospitals located in other urban areas.

(ii) For purposes of determining the updated base-year costs for cost reporting periods beginning in Federal fiscal year 1989 (that is, beginning on or after October 1, 1988 and before October 1, 1989), the update factor for the cost reporting period beginning during federal fiscal year 1988 is deemed to have been—

(A) 3.0 percent for hospitals located in rural areas;

(B) 1.5 percent for hospitals located in large urban areas; and

(C) 1.0 percent for hospitals located in other urban areas.

(6) *For Federal fiscal years 1989 and following.* For Federal fiscal years 1989 and following, the update factor is determined using the methodology set forth in § 412.63(g) and (h).

* * * * *

E. Subpart F is amended as follows:

Subpart F—Payment for Outlier Cases

1. Section § 412.80 is amended by revising the introductory text of

paragraph (a)(1) and paragraphs (a)(1)(ii) and (a)(2) to read as follows:

§ 412.80 General provisions.

(a) *Basic rule.* (1) Except as provided in paragraph (a)(2) of this section concerning transferring hospitals, HCFA provides for additional payment, approximating a hospital's marginal cost of care beyond thresholds specified by HCFA, to a hospital for covered inpatient hospitals services furnished to a Medicare beneficiary if either of the following conditions is met:

* * * * *

(ii) the beneficiary's length of stay does not exceed criteria established under paragraph (a)(1)(i) of this section, but the hospital's charges for covered services furnished to the beneficiary, adjusted to cost by applying a cost-to-charge ratio as described in § 412.84(h), exceed the greater of the following:

* * * * *

(2) *Outlier cases in transferring hospitals.* HCFA provides cost outlier payments to a transferring hospital that does not receive payment under § 412.2(b) for discharges specified in § 412.4(d)(2), if the hospital's charges for covered services furnished to the beneficiary, adjusted to cost by applying a cost-to-charge ratio as described in § 412.84(h), exceed the greater of the criteria specified in paragraph (a)(1)(ii) of this section.

* * * * *

2. In § 412.82, paragraph (c) is revised; paragraph (d) is redesignated as paragraph (e); and a new paragraph (d) is added to read as follows:

§ 412.82 Payment for extended length-of-stay cases (day outliers).

(c) Except as provided in paragraph (d) of this section or § 412.86, the per diem payment made under paragraph (a) of this section is derived by first taking 60 percent of the average per diem payment for the applicable DRG, as calculated by dividing the Federal prospective payment rate determined under Subpart D of this part by the mean length-of-stay for that DRG. The resulting amount is then multiplied by the applicable Federal portion of the blend as follows:

Cost reporting periods beginning on or after	Federal portion (percent)
October 1, 1983	25
October 1, 1984	50
October 1, 1985	
The first seven months of the cost reporting period	50
The remaining five months of the cost reporting period	55
October 1, 1986	75
October 1, 1987	100

(d) For discharges occurring on or after April 1, 1988 and before October 1, 1989, the per diem payment made under paragraph (a) of this section for the DRGs related to burn cases, which are identified in the most recent annual notice of prospective payment rates published in accordance with § 412.8(b), is derived under the provisions of paragraph (c) of this section except that the calculation is made using 90 percent of the average per diem payment of the applicable DRG.

* * * * *

3. In § 412.84, paragraphs (a) and (g) are revised; paragraphs (h) and (i) are redesignated as paragraphs (i) and (j), respectively; a new paragraph (h) is added; newly redesignated paragraph (j) is revised; and a new paragraph (k) is added to read as follows:

§ 412.84 Payment for extraordinarily high-cost cases (cost outliers).

(a) A hospital may request its intermediary to make an additional payment for inpatient hospital services that meet the criteria established in accordance with § 412.80(a)(1)(ii).

* * * * *

(g) The intermediary bases the cost of the discharge on the billed charges for covered inpatient services adjusted by a cost-to-charge ratio as described in paragraph (h) of this section. The cost is adjusted further to exclude an estimate of indirect medical education costs, and payments for hospitals that serve a disproportionate share of low-income patients, and to include the reasonable charges for nonphysician services billed by an outside supplier in accordance with § 489.23(c)(3) of this chapter.

(h) The cost-to-charge ratio used to adjust covered charges is computed annually by the intermediary for each hospital based on the latest available settled cost report for that hospital and charge data for the same time period as that covered by the cost report. Statewide cost-to-charge ratios are used in those instances in which a hospital's cost-to-charge ratio falls outside reasonable parameters. HCFA sets forth these parameters and the Statewide cost-to-charge ratios in each year's annual notice of prospective payment rates published under § 412.8(b).

* * * * *

(j) Except as provided in paragraph (k) of this section, the additional amount is derived by first taking 75 percent of the difference between the hospital's adjusted cost for the discharge (as determined under paragraph (g) of this section) and the threshold criteria established under § 412.80(a)(1)(ii). The resulting amount will then be multiplied by the applicable Federal portion of the blend as indicated in § 412.82(c).

(k) For discharges occurring on or after April 1, 1988 and before October 1, 1989, the additional payment amount for the DRGs related to burn cases, which are identified in the most recent annual notice of prospective payment rates published in accordance with § 412.8(b), is computed under the provisions of paragraph (i) of this section except that the payment is made using 90 percent of the difference between the hospital's adjusted cost for the discharge and the threshold criteria.

4. A new § 412.86 is added to read as follows:

§ 412.86 Payment for extraordinarily high-cost day outliers.

If a discharge that qualifies for an additional payment under the provisions of § 412.82 has charges adjusted to costs that exceed the cost outlier threshold criteria for an extraordinarily high-cost case as set forth in § 412.80(a)(1)(ii), the additional payment made for the discharge is the greater of—

(a) The applicable per diem payment computed under § 412.82 (c) or (d); or

(b) The payment that would be made under § 412.84 (i) or (j) if the case had not met the day outlier criteria threshold set forth in § 412.80(a)(1)(i).

F. Subpart G is amended as follows:

Subpart G—Special Treatment of Certain Facilities

§ 412.90 [Amended]

1. In § 412.90(h), the phrase "October 1, 1988" is revised to read "October 1, 1990".

2. In § 412.92, the introductory texts of paragraphs (a) and (a)(2) are republished and paragraph (a)(2)(i) is revised; paragraphs (b)(1)(ii) and (b)(1)(iii) are redesignated as paragraphs (b)(1)(iv) and (b)(1)(v), respectively; new paragraphs (b)(1)(ii) and (b)(1)(iii) are added; paragraphs (b)(2), (b)(3), and (b)(4) are redesignated as paragraphs (b)(3), (b)(4), and (b)(5) respectively; new paragraph (b)(2) is added; newly redesignated paragraph (b)(4) is [amended] by redesignating paragraph (b)(4)(ii) as paragraph (b)(4)(iii), and adding a new paragraph(b)(4)(ii); the introductory text of paragraph (c) is republished, paragraph (c)(1) is revised, and a new paragraph (c)(3) is added;

paragraph (d)(2) is revised; the title of paragraph (e) and paragraph (e)(1) are revised; the introductory texts of paragraphs (e)(2) and (e)(3) are revised; paragraphs (e)(3)(i), (e)(3)(ii), and (e)(3)(iii) are redesignated as paragraphs (e)(3)(i)(A), (e)(3)(i)(B), and (e)(3)(i)(C), respectively; new introductory text for paragraph (e)(3)(i) and paragraphs (e)(3)(ii) and (e)(3)(iii) are added; paragraph (f) is redesignated as paragraph (g); a new paragraph (f) is added; and newly redesignated paragraph (g)(1) is revised to read as follows:

§ 412.92 Special treatment: Sole community hospitals.

(a) *Criteria for classification as a sole community hospital.* HCFA classifies a hospital as a sole community hospital if it is located in a rural area (as defined in § 412.62(f), and meets one of the following conditions:

* * * * *

(2) The hospital is located between 25 and 50 miles from other like hospitals and meets one of the following criteria:

(i) No more than 25 percent of residents who become hospital inpatients or no more than 25 percent of the Medicare beneficiaries who become hospital inpatients in the hospital's service area are admitted to other like hospitals located within a 50-mile radius of the hospital, or, if larger, within its service area;

* * * * *

(b) *Classification procedures*—(1) *Request for classification as a sole community hospital.* * * *

(ii) If a hospital is seeking sole community hospital classification under paragraph (a)(2)(i) or (a)(2)(ii) of this section, the hospital must include the following information with its request:

(A) The hospital must provide patient origin data (for example, 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.

(B) The hospital must provide patient origin data from all other hospitals located within a 50 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.

(iii) (A) If the hospital is unable to obtain the information required under paragraph (b)(1)(ii)(A) of this section concerning the residences of Medicare beneficiaries who were inpatients in other hospitals located within a 50 mile radius of the hospital or, if larger, within the hospital's service area, the hospital may request that HCFA provide this information.

(B) If a hospital obtains the information as requested under paragraph (b)(1)(iii)(A) of this section, that information is used by both the intermediary and HCFA in making the determination of the residences of Medicare beneficiaries under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, regardless of any other information concerning the residences of Medicare beneficiaries submitted by the hospital.

* * * * *

(2) *Effective dates of classification.*

(i) Sole community hospital status is effective 30 days after the date of HCFA's written notification of approval to the provider.

(ii) When a court order or a determination by the Provider Reimbursement Review Board (PRRB) reverses an HCFA denial of sole community hospital status and no further appeal is made, the sole community hospital status is effective as follows:

(A) If the hospital's application was submitted prior to October 1, 1983, its status as a sole community hospital is effective at the start of the cost reporting period for which it sought exemption from the cost limits.

(B) If the hospital's application for sole community hospital status was filed on or after October 1, 1983, the effective date is 30 days after the date of HCFA's original written notification of denial.

(iii) When a hospital is granted retroactive approval of sole community hospital status by a court order or a PRRB decision and the hospital wishes its sole community hospital status terminated before the date of the court order or PRRB determination, it must submit written notice to the HCFA regional office within 90 days of the court order or PRRB decision. A written request received after the 90-day period is effective no later than 30 days after the request is submitted.

(iv) A hospital classified as a sole community hospital receives a payment adjustment, as described in paragraph (d) of this section, effective with discharges occurring on or after 30 days after the date of HCFA's approval of the classification.

* * * * *

(4) *Cancellation of classification.*

* * * * *

(ii) The cancellation becomes effective no later than 30 days after the date the hospital submits its request.

* * * * *

(c) *Terminology.* As used in this section—

(1) The term *"miles"* means the shortest distance in miles measured over improved roads. An improved road for this purpose is any road which is maintained by a local, State, or Federal government entity and which is available for use by the general public.

* * * * *

(3) The term *"service area"* means the area from which a hospital draws at least 75 percent of its inpatients during the most recent 12-month cost reporting period ending before it applies for classification as a sole community hospital.

(d) *Determining prospective payment rates for sole community hospitals.*

* * * * *

(2) *Adjustments to payments.* A sole community hospital may receive an adjustment to its payments to take into account a significant decrease in number of discharges or a significant increase in inpatient operating costs, as described in paragraphs (e) and (g) of this section respectively.

(e) *Additional payments to sole community hospitals experiencing a significant volume decrease.* (1) For cost reporting periods beginning on or after October 1, 1983 and before October 1, 1990, HCFA provides for a payment adjustment for a sole community hospital for any cost reporting period during which the hospital experiences, due to circumstances as described in paragraph (e)(2) of this section a more than five percent decrease in its total discharges of inpatients as compared to its immediately preceding cost reporting period. If either the cost reporting period in question or the immediately preceding cost reporting period is other than a 12-month cost reporting period, the intermediary must convert the discharges to a monthly figure and multiply this figure by 12 to estimate the total number of discharges for a 12-month cost reporting period.

(2) To qualify for a payment adjustment on the basis of a decrease in discharges, a sole community hospital must submit its request no later than 180 days after the date on the intermediary's Notice of Amount of Program Reimbursement—

* * * * *

(3) HCFA determines a lump sum adjustment amount not to exceed the difference between the hospital's Medicare inpatient operating costs and the hospital's total DRG revenue based on DRG-adjusted prospective payment rates (including outlier payments determined under Subpart F of this part

and additional payments made for hospitals that serve a disproportionate share of low-income patients as determined under § 412.106 and for indirect medical education costs as determined under § 412.118).

(i) In determining the adjustment amount, HCFA considers—

* * * * *

(ii) HCFA makes its determination within 180 days from the date HCFA receives from the intermediary the hospital's request and all other necessary information.

(iii) The HCFA determination is subject to review under Subpart R of Part 405 of this chapter.

(f) *Additional payments to other hospitals experiencing a significant volume decrease.* (1) For cost reporting periods beginning on or after October 1, 1987 and before October 1, 1990, HCFA provides for a payment adjustment for a hospital that qualifies as a sole community hospital but is not receiving payment as a sole community hospital under paragraph (d) of this section for any cost reporting period during which the hospital experiences, due to circumstances beyond its hospital's control, a decrease of more than five percent in its total discharges of inpatients as compared to its immediately preceding cost reporting period. If either the cost reporting period in question or the immediately preceding cost reporting period is other than a 12-month cost reporting period, the intermediary must convert the discharges to a monthly figure and multiply that figure by 12 to estimate the total number of discharges for a 12-month cost reporting period. The payment adjustment is determined under the provisions of paragraph (e)(3) of this section.

(2) To qualify for a payment adjustment under paragraph (f)(1) of this section, a hospital must complete the following:

(i) No later than 180 days from the date of the intermediary's Notice of Amount of Program Reimbursement, the hospital must submit to the HCFA regional office a request for sole community hospital status for the purpose of the payment adjustment only furnishing the documentation as may be necessary to demonstrate that the hospital meets the criteria in paragraph (a) of this section.

(ii) Within 180 days from the date on the notice from the regional office indicating that sole community hospital status has been granted for purposes of the payment adjustment only, the hospital submits to the intermediary documentation demonstrating the size of the decrease in discharges and the resulting effect on per discharge costs and shows that the decrease is due to circumstances beyond the hospital's control.

(g) *Payment adjustment for new inpatient facilities or services*—(1) *General rule.* If a sole community hospital experiences a significant increase in inpatient operating costs resulting from new inpatient services or facilities that were not available in the hospital during its base period and that are necessary for patient care, HCFA may adjust payments made to the hospital to ensure that it is receiving reasonable compensation, as defined in paragraph (g)(2) of this section, for the operating costs of the new inpatient facilities or services (including special care units).

* * * * *

3. In § 412.96, introductory text is added to paragraph (b), paragraphs (b)(1) and (d) are revised, and paragraph (e) is removed and reserved to read as follows:

§ 412.96 Special treatment: Referral centers.

* * * * *

(b) *Criteria for cost reporting periods beginning on or after October 1, 1983.* The hospital meets either of the following criteria:

(1) The hospital is located in a rural area (as defined in § 412.63(b)) and has the following number of beds, as determined under the provisions of § 412.118(b), available for use:

(i) Effective for discharges occurring before April 1, 1988, the hospital has 500 or more beds.

(ii) Effective for discharges occurring on or after April 1, 1988, the hospital has 25 or more beds during its most recently completed cost reporting period unless the hospital submits written documentation with its application that its bed count has changed since the close of its most recently completed cost reporting period for one or more of the following reasons:

(A) Merger of two or more hospitals.

(B) Reopening of acute care beds previously closed for renovation.

(C) Transfer to the prospective payment system of acute care beds previously classified as part of an excluded unit.

(D) Expansion of acute care beds available for use and permanently maintained for lodging inpatients, excluding beds in corridors and other temporary beds.

* * * * *

(d) *Payment to rural referral centers.* Effective for discharges occurring on or after April 1, 1988, a hospital that is located in a rural area and meets the criteria of paragraphs (b)(1), (b)(2) or (c) of this section is paid prospective payments per discharge based on the applicable other urban payment rates as determined in accordance with § 412.63, as adjusted by the hospital's area wage index.

(e) [Reserved]

* * * * *

4. In § 412.106, the introductory text of paragraph (a)(1) is republished; paragraph (a)(1)(i) is revised; the introductory text of paragraph (a)(2) is revised; a new paragraph (a)(5) is added; and the introductory text of paragraph (b)(1), and paragraphs (b)(1)(ii), (b)(2), and (c) are revised to read as follows:

§ 412.106 Special treatment: Hospitals that serve as a disproportionate share of low-income patients.

(a) *Basic rule.* (1) Unless a hospital elects the option concerning the period of time used for counting the number of patient days (that is, the hospital's cost reporting period rather than the Federal fiscal year), as described in paragraph (a)(2) of this section, a hospital's disproportionate patient percentage is the sum of the following, expressed as a percentage:

(i) Number of covered patient days associated with discharges occurring during each month of the Federal fiscal year in which the hospital's cost reporting period begins of those patients who are entitled during that month to both Medicare Part A and Supplemental Security Income benefits under title XVI of the Act (excluding those patients receiving State supplementation only), summed for the months of the Federal fiscal year, and divided by the number of patient days associated with discharges occurring during that same Federal fiscal year of those patients entitled to Medicare Part A.

(2) For purposes of making the calculation in paragraph (a)(1)(i) of this section, a hospital may elect to have the count of the number of patient days made on the basis of covered patient days associated with discharges occurring during each month of its cost reporting period, rather than by Federal fiscal year, if the hospital furnishes to its intermediary, in machine-readable tape format as prescribed by HCFA, data on its Medicare Part A patients for its cost reporting period.

* * * * *

(5) For purposes of making the calculation in paragraph (a)(1) of this section, patient days are determined by counting those days attributable only to

areas of the hospital subject to the prospective payment system. Patient days attributable to areas or units of the hospital excluded from the prospective payment system are not included in the count of patient days.

(b) *Criteria for classification*—(1) *General rule.* For discharges occurring on or after May 1, 1986 and before October 1, 1990, a payment adjustment (as described in paragraph (c) of this section) is made for each hospital that meets one of the following criteria:

* * * * *

(ii) The hospital is located in an urban area, has 100 or more beds, and can demonstrate that, during its cost reporting period, more than 30 percent of its net inpatient care revenues are derived from State and local government payments for indigent care furnished to patients who are not covered by Medicare or Medicaid.

(2) *Special rule for certain rural hospitals.* For discharges occurring on or after October 1, 1986 and before October 1, 1990, a payment adjustment (as described in paragraph (c) of this section) is made for each hospital that, during its cost reporting period, has a disproportionate patient percentage that is at least equal to 15 percent, if the hospital is located in a rural area and has 500 or more beds.

(c) *Payment adjustment.* For discharges occurring on or after October 1, 1988, if a hospial meets one of the criteria in paragraph (b) of this section, the hospital's total DRG revenue based on DRG-adjusted prospective payment rates (for transition period payments, the Federal portion of the hospital's payment rates), including outlier payments determined under Subpart F of this part but excluding additional payments made under the provisions of this subpart or § 412.118, is increased by the disproportionate share payment adjustment factor, determined as follows:

(1) If the hospital meets the criteria of paragraph (b)(1)(i)(A) of (b)(2) of this section, the disproportionate share payment adjustment factor is 2.5 percent plus one-half the difference between the hospital's disproportionate patient percentage and 15 percent.

(2) If the hospital meets the criteria of paragraph (b)(1)(i)(B) of this section, the disproportionate share payment adjustment factor is five percent.

(3) If the hospital meets the criteria of paragraph (b)(1)(i)(C) of this section, the disproportionate share payment adjustment factor is four percent.

(4) If the hospital meets the criteria of paragraph (b)(1)(ii) of this section, the disproportionate share payment adjustment factor is 25 percent.

G. Subpart H is amended as follows:

Subpart H—Payments to Hospitals Under the Prospective Payment System

1. In § 412.113, paragraphs (a)(1) and (b) are revised to read as follows:

§ 412.113 Payments determined on a reasonable cost basis.

(a) *Capital related costs.* (1) *Payment.* Subject to the reductions described in paragraph (a)(2) of this section, payment for capital-related costs (as described in § 413.130 of this chapter) is determined on a reasonable cost basis.

* * * * *

(b) *Direct medical education costs.* Payment for the cost of approved medical educational activities as defined in § 413.85 of this chapter is made on a reasonable cost basis (except with respect to activities defined in § 413.85(d) of this chapter). For cost reporting periods beginning on or after July 1, 1985, but before July 1, 1986, payment for these reasonable costs is limited as described in § 413.85(a) of this chapter.

* * * * *

2. In § 412.116, paragraph (a) is revised; paragraph (d) is removed; paragraphs (e) and (f) are redesignated as paragraphs (d) and (e), respectively; and newly redesignated paragraph (d) is revised to read as follows:

§ 412.116 Method of payment.

(a) *General rule.* Unless the provisions of paragraphs (b) and (c) of this section apply, hospitals are paid for each discharge based on the submission of a discharge bill. Payments for inpatient hospital services furnished by an excluded distinct part psychiatric or a rehabilitation unit of a hospital are made as described in § 413.64 (a), (c), (d), and (e) of this chapter.

* * * * *

(d) *Outlier payments.* Payments for outlier cases (described in Subpart F of this part) are not made on an interim basis. The outlier payments are made based on submitted bills and represent final payment.

* * * * *

3. In § 412.118, the title and paragraph (c) are revised; the text of paragraph (d)(1) is removed and paragraph (d)(2) is redesignated as paragraph (d)(1); newly redesigated paragraph (d)(1) is amended by revising the introductory text and paragraphs (d)(1)(i) and (d)(1)(iii); and a new paragraph (d)(2) is added to read as follows:

§ 412.118 Determination of indirect medical education adjustment.

(c) *Measurement for teaching activity.* The factor representing the effect of teaching activity on inpatient operating costs is equal to the following:

(1) For discharges occurring on or after May 1, 1988 and before October 1, 1990, the factor equals .405.

(2) For discharges occurring on or after October 1, 1990, the factor equals .5795.

(d) *Determination of education adjustment factor.* (1) For discharges occurring on or after October 1, 1988 and before October 1, 1990, each hospital's education adjustment factor is calculated as follows:

(i) *Step one*—A factor representing the sum of 1.00 plus the hospital's ratio of full-time equivalent interns and residents to beds, as determined under paragraph (a)(1) of this section, is raised to an exponential power equal to the factor set forth in paragraph (c)(1) of this section.

* * * * *

(iii) *Step three*—The factor derived from completing steps one and two is multiplied by 1.89.

(2) For discharges, occurring on or after October 1, 1990, each hospital's education adjustment factor is calculated as follows:

(i) *Step one*—A factor representing the sum of 1.00 plus the hospital's ratio of full-time equivalent interns and residents to beds, as determined under paragraph (a)(1) of this section, is raised to an exponential power equal to the factor set forth in paragraph (c)(2) of this section.

(ii) *Step two*—The factor derived from step one is reduced by 1.00.

(iii) *Step three*—The factor derived from completing steps one and two is multiplied by 1.43.

* * * * *

H. Subpart K is amended as follows:

Subpart K—Prospective Payment System for Hospitals Located in Puerto Rico

1. In § 412.208, the introductory text of paragraph (f)(1) is republished; paragraph (f)(1)(ii) is redesignated as paragraph (f)(1)(iii); a new paragraph (f)(1)(ii) is added; and paragraph (i) is revised to read as follows:

§ 412.208 Puerto Rico rates for Federal fiscal year 1988.

* * * * *

(f) *Geographic classification.* (1) For purposes of this paragraph (e) of this section, the following definitions apply:

* * * * *

(ii) The term "large urban area" means an MSA with a population of more than 1,000,000.

* * * * *

(i) *Adjusting for different area wage levels.* HCFA adjusts the proportion (as estimated by HCFA from time to time) of Puerto Rico rates computed under paragraph (h) of this section that are attributable to wages and labor-related costs, for area differences in hospital wage levels, by a factor (established by HCFA) reflecting the relative hospital wage level in the geographic area (that is, urban or rural area as determined under the provisions of paragraph (f) of this section) of the hospital compared to the national average hospital wage level.

2. In § 412.210, paragraphs (a)(2)(b), the introductory text of paragraph (c), paragraph (c)(1), the introductory texts of paragraphs (d) and (d)(1), paragraph (d)(1)(i), and paragraph (e) are revised to read as follows:

§ 412.210 Puerto Rico rates for fiscal years after fiscal year 1988.

(a) *General rule.* * * *

(2) The rate is determined for hospitals located in large urban, other urban, or rural areas within Puerto Rico, as described in paragraphs (b) through (e) of this section.

(b) *Geographic classifications.* (1) For purposes of this section, the definitions set forth in § 412.208(f)(1) apply.

(2) For discharges occurring on or after October 1, 1988, a hospital located in a rural county adjacent to one or more urban areas is deemed to be located in an urban area and receives the Federal payment amount for the urban area 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 for designating MSAs if the commuting rates used in determining outlying counties 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 central counties of all adjacent MSAs.

These EOMB standards are set forth in the notice of final standards for classification of MSAs published in the **Federal Register** on January 3, 1980 (45 FR 956), and available from HCFA, East High Rise Building, Room 132, 6325 Security Boulevard, Baltimore, Maryland 21207.

(3) For discharges occurring on or after October 1, 1988, for hospitals that consist of two or more separately located inpatient hospital facilities, the national adjusted prospective payment rate is based on the geographic location of the hospital at which the discharge occurs.

(c) *Updating previous standardized amounts.* HCFA computes separate average standardized amounts for hospitals in large urban, other urban, and rural areas within Puerto Rico equal to the respective average standardized amount computed for fiscal year 1988 under § 412.208(e)—

(1) Increased by the applicable percentage changes determined under § 412.63 (g) and (h); and

* * * * *

(d) *Computing Puerto Rico rates for large urban, other urban, and rural hospitals.* For each discharge classified within a DRG, HCFA establishes for the fiscal year a Puerto Rico prospective payment rate as follows:

(1) For hospitals located in a large urban or other urban area in Puerto Rico, the rate equals the product of—

(i) The average standardized amount (computed under paragraph (c) of this section) for the fiscal year for hospitals located in a large urban or other urban area; and

* * * * *

(e) *Adjusting for different area wage levels.* HCFA adjusts the proportion (as estimated by HCFA from time to time) of Puerto Rico rates computed under paragraph (d) of this section that is attributable to wages and labor-related costs for area differences in hospital wage levels by a factor (established by HCFA) reflecting the relative hospital wage level in the geographic area (that is, urban or rural area as determined under the provisions of paragraph (b) of this section) of the hospital compared to the national average hospital wage level.

§ 412.212 [Amended]

3. In § 412.212, the reference to "§ 412.63(i)(1)(i)" in paragraph (b)(1) is revised to read "412.63(j)(1)(i)" and the reference to "§ 412.63(i)(2)(i)" in paragraph (b)(2) is revised to read "§ 412.63(j)(2)(i)".

III. Part 413 is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for Part 413 continues to read as follows:

Authority: Secs. 1102, 1122, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1320a–1, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, and 1395ww).

B. In § 413.30, paragraph (c) is revised to read as follows:

§ 413.30 Limitations on reimbursable costs.

* * * * *

(c) *Provider requests regarding applicability of cost limits.* A provider may request a reclassification, exception, or exemption from the cost limits imposed under this section. In addition a hospital may request an adjustment to the cost limits imposed under this section. The provider's request must be made to its fiscal intermediary within 180 days of the date on the intermediary's notice of program reimbursement. The intermediary makes a recommendation on the provider's request to HCFA, which makes the decision. HCFA responds to the request within 180 days from the date HCFA receives the request from the intermediary. The intermediary notifies the provider of HCFA's decision. The time required for HCFA to review the request is considered good cause for the granting of an extension of the time limit to apply for a Board review, as specified in § 405.1841 of this chapter. HCFA's decision is subject to review under Subpart R of Part 405 of this chapter.

* * * * *

C. In § 413.40, paragraphs (a)(2), (b)(1), and (b)(2) are revised; the introductory text of paragraph (c)(3)(i) is republished; paragraphs (c)(3)(i)(C), (c)(3)(i)(D), (e), (f)(1), (g)(1), and (h)(1)(iii) are revised; and a new paragraph (i) is added to read as follows:

§ 413.40 Ceiling on rate of hospital cost increases.

(a) *Introduction.* * * *

(2) *Applicability.* (i) This section is not applicable to—

(A) Hospitals reimbursed in accordance with section 1814(b)(3) of the Act or under State reimbursement control systems that have been approved under secton 1886(c) of the Act and Subpart C of Part 403 of this chapter; or

(B) Hospitals that are paid under the prospective payment system for inpatient hospital services in accordance with section 1886(d) of the Act and Part 412 of this chapter.

(ii) For cost reporting periods beginning on or after October 1, 1983, this section is applicable to hospitals excluded from the prospective payment system in accordance with § 412.23 of this chapter, subprovider psychiatric and rehabilitation units (distinct parts) excluded from the prospective payment system in accordance with §§ 412.25 through 412.32 of this chapter, and those hospitals eligible for special treatment under the prospective payment system

as described in § 412.94(b) of this chapter.

(b) *Cost reporting periods subject to the rate of increase ceiling*—(1) *Base period.* Each hospital's ceiling is based on allowable inpatient operating costs per case incurred in the 12-month cost reporting period immediately preceding the first cost reporting period subject to ceilings established under this section, except that, when the immediately preceding cost reporting period is a short reporting period (fewer than 12 months) the first 12-month period subsequent to that short period is the base period. The ceiling established under this procedure remains applicable for a hospital or excluded distinct part hospital unit, as described in §§ 412.25 through 412.32 of this chapter, in spite of intervening cost reporting periods during which the hospital or excluded distinct part hospital unit is not subject to the target amount as a result of other provisions of the law or regulations, or nonparticipation in the Medicare program, unless the hospital or excluded distinct part hospital unit qualifies as a new hospital or excluded distinct part hospital unit under paragraph (f) of this section.

(2) *Periods subject to the ceiling.* Ceilings established under this section are applied to all cost reporting periods that—

(i) Begin on or after October 1, 1982; and

(ii) Immediately follow the base period established under paragraph (b)(1) of this section unless the exception in paragraph (b)(3) of this section is applicable.

* * * * *

(c) *Procedure for establishing the ceiling (target amount).* * * *

(3) *Target rate percentage.* * * *

(i) The applicable target rate percentage is determined as follows:

* * *

(C) *Federal fiscal year 1988.* The applicable target rate percentage for cost reporting periods beginning on or after October 1, 1987 and before October 1, 1988 is 2.3238 percent. For purposes of updating the target rates for cost reporting periods beginning on or after October 1, 1988, the target rate percentage for cost reporting periods beginning during FY 1988 is deemed to have been 2.7 percent.

(D) *Federal fiscal year 1989 and following:* The applicable target rate percentage for cost reporting periods beginning during FY 1989 and in all fiscal years thereafter is the percentage increase in the hospital market basket (as described in paragraph (c)(3)(ii) of this section.

* * * * *

(e) *Hospital requests regarding applicability of the rate of increase ceiling.* A hospital may request an exemption from, or exception or adjustment to, the rate of cost increase ceiling imposed under this section. The hospital's request must be made to its fiscal intermediary no later than 180 days from the date on the intermediary's notice of program reimbursement. The intermediary makes a recommendation on the hospital's request to HCFA, which makes the decision. HCFA responds to the request within 180 days from the date HCFA receives the request from the intermediary. The intermediary notifies the hospital of HCFA's decision. The time required for HCFA to review the request is considered good cause for the granting of an extension of the time limit to apply for review by the Provider Reimbursement Review Board, as specified in § 405.1841(b) of this chapter. HCFA's decision is subject to review under Subpart R of Part 405 of this chapter.

(f) *Exemptions*—(1)(i) *New hospitals.* New hospitals that request and receive an exemption from HCFA are not subject to the rate of increase ceiling imposed under this section. For purposes of this section, a new hospital is a provider of inpatient hospital services that has operated as the type of hospital for which HCFA granted it approval to participate in the Medicare program, under present or previous ownership, or both, for less than three full years. This exemption expires at the end of the first cost reporting period beginning at least two years after the hospital accepts its first patient. The first cost reporting period beginning at least two years after the hospital accepts its first patient is the base period in accordance with paragraph (b) of this section.

(ii) A newly-established distinct part unit that is excluded from the prospective payment system under the provisions of §§ 412.25 through 412.32 of this chapter does not qualify for the exemption afforded to a new hospital under paragraph (f)(1)(i) of this section unless the distinct part unit is located in a hospital that, if it were subject to the provisions of this section, would qualify as a new hospital under paragraph (f)(1)(i) of this section. The first 12-month cost reporting period under which a newly-established excluded distinct part unit exists is the base period used to establish a target amount.

* * * * *

(g) *Exceptions*—(1) *General procedure.* HCFA may adjust a hospital's operating costs (as described in paragraph (b)(1) of this section) upward or downward, as appropriate, under circumstances as specified in paragraphs (g)(2) and (3) of this section. HCFA makes an adjustment only to the extent that the hospital's operating costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary. HCFA may grant an exception only if a hospital's operating costs exceed the rate of increase ceiling imposed under this section.

* * * * *

(h) *Adjustments.* * * *

(1) *Capability of cost reporting periods.* * * *

(iii) HCFA may adjust the amount of operating costs, under paragraph (c)(1) of this section, to take into account factors such as a change in the inpatient hospital services that a hospital provides, that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A change in the inpatient hospital services provided could result from changes that include, but are not limited to, opening or closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department. HCFA may grant an adjustment only if a hospital's operating costs exceed the rate of increase ceiling imposed under this section.

* * * * *

(i) *Target amount revisions for Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360)* (1) *General rule.* For cost reporting periods beginning on or after October 1, 1988, HCFA may adjust a hospital's target amount to take into account any distortion in operating costs between the hospital's base period and the period subject to the rate of increase ceiling due to the elimination of Part A inpatient hospital benefit limitations under section 101 of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360).

(2) *Request for adjustment.* A hospital must request an adjustment no later than 180 days after the close of its first cost reporting period beginning on or after October 1, 1988. A request for adjustment must include the following:

(i) A statement from the hospital specifying that adjustment is to be based on its historical experience in—

(A) Its base period; or

(B) Its last cost reporting period beginning before October 1, 1988. (If this

period is not at least 12 months in duration, multiple consecutive cost reporting periods comprising at least 12 months must be used.)

(ii) The hospital's cost report or reports for the period selected by the hospital under paragraph (i)(2)(i) of this section to serve as the basis for the adjustment.

(iii) Billing data for the cost reporting period selected under paragraph (i)(2)(i) of this section as the basis for the adjustment documenting the following:

(A) The number of hospital inpatient days furnished to Medicare beneficiaries for which no payment was made because the beneficiary had exhausted Medicare Part A hospital benefits during an inpatient hospital stay. (Excluded from the count are days for stays that were not covered in their entirety.)

(B) The ancillary charges for services furnished on the days counted in paragraph (i)(2)(iii)(A) of this section.

(3) *Amount of adjustment.* The adjustment is based on the estimated incremental costs of care historically furnished to Medicare beneficiaries after they had exhausted their benefits during an inpatient hospital stay.

IV. Part 489 is amended as follows:

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

A. The authority citation for Part 489 is revised to read as follows:

Authority: Secs. 1102, 1861, 1864(m), 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa(m), 1395cc, and 1395hh).

§ 489.23 [Removed]

B. Subpart B is amended by removing § 489.23.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 23, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: September 27, 1988.

Otis R. Bowen,

Secretary.

(Note: The following addendum and appendixes will not appear in the Code of Federal Regulations.)

Addendum—Schedule of Standardized Amounts Effective With Discharges on or After October 1, 1988, and Update Factors and Target Rate Percentages Effective With Cost Reporting Periods Beginning on or After October 1, 1988

I. Summary and Background

In this addendum to the final rule, we are making changes in the methods, amounts, and factors for determining prospective payment rates for Medicare inpatient hospital services including those services furnished in Puerto Rico. We are also setting forth the new target rate percentages for determining the rate-of-increase limits (target amounts) for hospitals and hospital units excluded from the prospective payment system.

For hospital cost reporting periods beginning on or after October 1, 1988, except for sole community hospitals and hospitals located in Puerto Rico, each hospital's payment per discharge under the prospective payment system will be comprised of 100 percent of the Federal rate. Except for hospitals affected by the regional floor, the Federal portion of a hospital's prospective payment rate is based on 100 percent of the national rate.

Sole community hospitals are to be paid on the basis of a rate per discharge composed of 75 percent of the hospital-specific rate and 25 percent of the applicable Federal regional rate (section 1886(d)(5)(C)(ii) of the Act). Hospitals in Puerto Rico are paid on the basis of a rate per discharge composed of 75 percent of a Puerto Rico rate and 25 percent of a national rate (section 1886(d)(9)(A) of the Act). Hospitals affected by the regional floor are paid on the basis of 85 percent of the Federal national rate and 15 percent of the Federal regional rate.

As discussed below in section II, we are making changes in the determination of the prospective payment rates. The changes, to be applied prospectively, will affect the calculation of the Federal rates. Section III sets forth our changes for determining the rate-of increase limits for hospitals excluded from the prospective payment system. The tables to which we refer in the preamble to the final rule are presented at the end of this addendum in section IV.

II. Changes to Prospective Payment Rates For Hospitals for FY 1989

The basic methodology for determining prospective payment rates is set forth at $412.63, except for hospitals located in Puerto Rico. The basic methodology for determining the prospective payment rates for hospitals located in Puerto Rico is set forth at §§ 412.210 and 412.212. Below we discuss the manner in which we are changing some of the factors or methodology 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, 1988. As required by section 1886(d)(4)(C) of the Act, we must adjust the DRG classifications and weighting factors for discharges in FY 1989.

In summary, the standardized amounts set forth in Tables 1a, 1b, and 1c of section IV of this addendum were:

- Restandardized to reflect the revision to the indirect medical education and disproportionate share hospital adjustment factors.
- Except for the amounts in Table 1c, adjusted to generate and preserve program savings from the reduction in indirect medical education payments.
- Adjusted to ensure budget neutrality as provided in section 4005(a)(1)(C) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203).
- Adjusted by the revised urban and rural outlier offsets
- Updated by—

—The market basket percentage increase minus 1.5 percentage points for hospitals located in rural areas;

—The market basket percentage increase minus 2.0 percentage points for hospitals in large urban areas; and

—The market basket percentage increase minus 2.5 percentage points for hospitals in urban areas other than large urban areas.

A. Calculation of Adjusted Standardized Amounts

1. Standardization and Restandardization 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 interim final rule, published September 1, 1983 (48 FR 39763), contains a detailed explanation of how base-year cost data were used 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 that Medicare target amounts be determined for each hospital located in Puerto Rico for its cost reporting period beginning in FY 1987. The September 1, 1987 final rule contains a detailed explanation of how the target amounts were determined and how they are used in computing the Puerto Rico rates (52 FR 33043, 33066).

The standardized amounts are based on per discharge averages of adjusted hospital costs 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)(C) and 1886(d)(9)(B)(ii) of the Act required that the updated base-year per discharge costs and, for Puerto Rico, the updated target amounts, respectively, be standardized in order to remove from the cost data the effects of certain sources of variation in cost among hospitals. These include case mix, differences in area wage levels, cost of living adjustments for Alaska and Hawaii, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients. Restandardization for the revised indirect medical education and disproportionate share hospital adjustment factors is performed at the individual hospital level because the original adjustments are performed on a hospital-specific basis and it is those adjustments that must be replaced.

Since all adjustments for variation in hospital operating costs or target amounts except those for the indirect medical education and disproportionate share hospitals had already been accounted for consistent with the construction of the standardized amounts, no revision was made at the hospital level for those factors. That is, the adjustments for differences in case mix, wages, and cost-of-living reflected in the FY 1989 standardized amounts are identical to those reflected in the FY 1988 standardized amounts. Therefore, the discussion below is limited to the changes in standardization for indirect medical education and disproportionate share hospitals necessitated by the provisions of section 4003 of Pub. L. 100–203.

a. Indirect Medical Education Costs. Section 1886(d)(2)(C)(i) of the Act requires that the updated FY 1984 amounts be standardized for indirect medical education costs. Section 1886(d)(9)(B)(ii)(I) is the parallel requirement for development of the Puerto Rico rates from updated FY 1987 target amounts. Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals receive an additional payment for the indirect costs of medical education.

Section 4003(a) of Pub. L. 100–203 revised section 1886(d)(5)(B)(ii) of the Act to reduce the indirect medical education adjustment factor used to determine the indirect medical education payment from approximately 8.1 percent to approximately 7.7 percent for discharges occurring on or after October 1, 1988 and before October 1, 1990. (These factors are approximations because the adjustment factor is applied on a curvilinear or variable basis. An adjustment made on a curvilinear basis reflects a nonlinear cost relationship, that is, each absolute increment in a hospital's ratio of interns and residents to beds does not result in an equal proportional increase in costs.) For discharges occurring on or after October 1, 1988 and before October 1, 1990, the indirect medical education factor equals the following:

$$1.89 \times \left[\left(1 + \frac{\text{interns and residents}}{\text{beds}} \right)^{.405} - 1 \right]$$

Section 1895(b)(1)(B) of the Tax Reform Act of 1986 (Pub. L. 99–514), enacted October 22, 1986, provides that "If the formula under paragraph (5)(B) [of section 1886(d) of the Act] for determining payments for the indirect costs of medical education is changed for any fiscal year, the Secretary shall readjust the standardized amounts previously determined for each hospital to take into account the changes in that formula." Accordingly, since the indirect medical education adjustment factor has been changed by section 4003(a) of Pub. L. 100–203, the base-year costs and target amounts have been readjusted (restandarized) using the new formula.

The restandardization is accomplished by multiplying each affected hospital's base-year cost or target amount per discharge by 1.0 plus the hospital's indirect medical education adjustment factor computed using the formula in effect prior to the enactment of Pub. L. 100–203 and then dividing the product by 1.0 plus the hospital's revised indirect medical education adjustment factor computed using the formula required by section 1886(d)(5)(B)(ii) of the Act as amended by section 4003(a) of Pub. L. 100–203.

b. *Costs for Hospitals that Serve a Disproportionate Share of Low-Income Patients.* Prior to enactment of Pub. L. 100–203, sections 1886(d)(2)(C)(iv) and 1886(d)(9)(B)(ii)(IV) of the Act provided that, effective with discharges occurring on or after October 1, 1986 and before October 1, 1989, the updated hospital costs and target amounts per case be standardized for the estimated additional payments made to hospitals that serve disproportionate shares of low-income patients. That is, the law requires us to remove the effects of the payments made to disproportionate share hospitals from the costs used to establish the standardized amounts.

Section 4003 (b) and (c) of Pub. L. 100–203 amended section 1886(d) of the Act to provide the following changes to the disproportionate share adjustment:

- The adjustment is extended to discharges occurring before October 1, 1990.
- For hospitals that qualify for a disproportionate share adjustment because they receive more than 30 percent of their net inpatient revenues from State and local government sources for the care of indigent patients, and adjustment is raised from 15 percent to 25 percent.
- For hospitals with 100 or more beds that are located in urban areas and for hospitals with 500 or more beds that are located in rural areas, the 15 percent cap on the amount of the payment adjustment is eliminated.

In establishing the standardized amounts for FY 1987 and FY 1988, we adjusted each disproportionate share hospital's inpatient operating cost or target amount per discharge by adding 1.0 to the applicable disproportionate share payment factor and dividing the hospital's cost or target amount per discharge by that number. In this way, we removed the effect of payment adjustments for disproportionate share hospitals from the standardized amounts as required under section 1886(d)(2)(C)(iv) of the Act.

The changes to the disproportionate share adjustment will result in higher adjustment factors than were taken into account in standardizing the costs used to establish the standardized amounts. Thus, it is now necessary to restandardize the base-year costs and target amounts to remove the effects of disproportionate share payments computed in accordance with the revised formula. In order to accomplish the restandardization, we first muiltipled each affected hospital's base-year cost or target amount per discharge by 1.0 plus the applicable disproportionate share payment factor

computed under the law as in effect prior to enactment of Pub. L. 100–203 and used to standardize the costs for FY 1988. This eliminated the effects of prior standardization for disproportionate share payments. We then divided the product of this calculation by the disproportionate share payment adjustment factor computed using the most recent data available to reflect the elimination of the 15 percent cap on disproportionate share adjustments and other changes required by section 4003(c) of Pub. L. 100–203.

2. Wage Index Values for Puerto Rico

As discussed in section IV of the preamble to this final rule, we are continuing to use the blended HCFA wage index which is based on 1982 and 1984 wage data. However, since the FY 1988 wage index values for areas in Puerto Rico were based solely on 1984 (and were not a blend of indexes based on 1982 and 1984 data), any changes in Puerto Rico wage index values are attributable only to the corrections we have made to the 1984 wage data based on our continuing analysis of the data, as discussed in section IV of the preamble to this final rule. Since the Puerto Rico standardized amounts are based on target amount data from relatively few hospitals, standardized by the Puerto Rico wage index values based on 1984 data, it is necessary to restandarize the target amount data to reflect changes in the wage values for Puerto Rico in order for the standardized amounts to be accurately adjusted for differences in area relative wage levels.

3. Computing Urban and Rural Averages Within Geographic Areas

In determining the prospective payment rates for FY 1984, section 1886(d)(2)(D) of the Act required that the average standardized amounts be determined for hospitals located in urban and rural areas of the nine census divisions and the nation, respectively. Under section 1886(d)(9)(B)(iii) of the Act, the average standardized amount per discharge for FY 1988 must be determined for hospitals located in urban and rural areas in Puerto Rico.

For FY 1989, except for hospitals in Puerto Rico and those hospitals that are affected by the regional floor, the Federal rates will be comprised of 100 percent of the national rate (section 1886(d)(1)(A)(iii) of the Act). The Federal rate for hospitals affected by the regional floor is based on 85 percent of the national rate and 15 percent of the regional rate. Section 1886(d)(5)(C)(ii) of the Act specifies that a sole community hospital's Federal rate is based on 100 percent of the regional rate. Hospitals in Puerto Rico are paid a blend of 75 percent of the applicable Puerto Rico standardized amount and 25 percent of a national standardized payment amount.

Table 1a contains the three national standardized amounts that are applicable to most hospitals. Table 1b sets forth the 27 regional standardized amounts that are applicable to sole community hospitals and to hospitals subject to the regional floor. Under section 1886(d)(9)(A)(ii) of the Act as amended by section 4002(c) of Pub. L. 100–203, effective October 1, 1987, the national standardized payment amount applicable to hospitals in Puerto Rico consists of the discharge-weighted average of the national rural standardized amount, the national large urban standardized amount and the national other urban standardized amount (as set forth in Table 1a). The national average standardized amount for Puerto Rico is set forth in Table 1c. This table also includes the three Puerto Rico standardized amounts that would be applicable to most hospitals in Puerto Rico.

The metholodogy for computing the national average standardized amounts is identical to the methodology for determining the regional amounts, except that we now apply separate update factors for the purposes of determining large urban and other urban rates.

We stated in the addendum to the proposed rule that the Executive Office of Management and Budget (EOMB) may announce revised listings of the Metropolitan Statistical Area (MSA) and New England County Metropolitan Area (NECMA) designations that are used in calculating the standardized amounts. We also stated that if EOMB makes the announcement before we issue the final rule, we would list the revised MSA/NECMA designations in the addendum to the final rule. We also stated that consistent with Medicare policy, as codified by this final rule, the changes in designation will be effective for discharges occurring on or after October 1, 1988.

Since publication of the proposed rule, EOMB has announced a new MSA, Decatur, AL, which comprises the counties of Morgan and Lawrence and has Decatur as its central city. This new MSA was created by Alabama Metropolitan Statistical Area Act (Pub. L. 100–258), enacted March 14, 1988. In addition, EOMB announced that the boundary of the St. Louis, MO–IL MSA has been changed to include the part of the City of Sullivan in Crawford County, MO. This boundary change was required by section 530 of the Treasury, Postal Service and General Government Appropriations Act of 1988 (Pub. L. 100–202), enacted December 22, 1987.

4. Updating the Average Standardized Amounts

In accordance with section 1886(d)(3)(A) of the Act, as amended by section 4002(c) of Pub. L. 100–203, we are updating the large urban, other urban, and rural average standardized amounts using the applicable percentage increases specified in section 1886(b)(3)(B)(i) of the Act, as amended by section 4002(a) of Pub. L. 100–203. The percentage increase to be applied is mandated under that section of the law as the estimated percentage increase in the hospital market basket minus—

- 1.5 percentage points for hospitals located in rural areas;
- 2.0 percentage points for hospitals located in large urban areas; and
- 2.5 percentage points for hospitals located in other urban areas.

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.

When the proposed rule was published, the increase in the hospital market basket for FY 1989 was estimated at 4.8 percent. Therefore, the proposed applicable percentage increases were—

- 3.3 percent for hospitals located in rural areas;
- 2.8 percent for hospitals located in large urban areas; and
- 2.3 percent for hospitals in other urban areas.

The most recent forecast of the market basket increase for FY 1989 is 5.4 percent. Therefore, the percentage increases applicable for FY 1989 are—

- 3.9 percent for hospitals located in rural areas;

3.4 percent for hospitals located in large urban areas; and

- 2.9 percent for hospitals located in other urban areas.

In accordance with section 1886(b)(3)(B)(i) of the Act, we also proposed that the hospital-specific rate (which after the first 51 days of cost reporting periods beginning on or after October 1, 1987 applies only to sole community hospitals) be updated by the applicable percentage increase for hospitals located in a large urban, other urban, or rural area based on the location of the sole community hospital.

Although the update factors for FY 1989 are set by law, we were required by section 1886(e)(3)(B) of the Act to

report to Congress no later than March 1, 1988 on our initial recommendation of update factors for FY 1989 for both prospective payment hospitals and hospitals excluded from the prospective payment system. For general information purposes, we have published this report as Appendix B of the proposed rule. Our final recommendation on the update factors (which is required by sections 1886(e)(4) and (e)(5)(A) of the Act) is set forth in Appendix B of this final rule.

Comment: We received a number of comments concerning the inadequacy of the updates to the standard payment amounts for FYs 1988 and 1989. Specifically, commenters stated that these increases are inadequate to keep pace with hospital inflation levels.

Response: The update factors applicable to the standard payment amounts for FY 1988 and FY 1989 were mandated by Congress under section 4002 of Pub. L. 100–203. Thus, the Secretary has no discretion in applying the update factors to the standard payment amounts other than in developing the hospital market basket inflation forecasts.

Comment: We received a few comments requesting clarification of how the standardized amounts that went into effect on April 1, 1988, were computed.

Response: The updates effective April 1, 1988 were applied to the standard payment rates in effect for the period September 1, 1987 through November 21, 1988, which had reflected a zero percent update. Because of the changes to the outlier payment methodology for burn cases, and the implementation of differential update factors effective April 1, 1988, it was also necessary to recompute the outlier offsets to the standard amount in order to reflect the resulting change in the distribution of outlier payments. We therefore removed the previous outlier offsets from the standard payment amounts and applied the revised outlier offsets. In addition, section 4003(d)(1)(B) of Pub. L. 100–203 required that total payments made under section 1886 of the Act after reflecting changes in outlier payments for cases in burn-related DRGs be neither greater nor less than total payments that would have been made in the absence of this provision. Therefore, it was necessary to apply a budget neutrality adjustment of .997697 to the standardized amounts.

Comments: We received a number of comments stating that our hospital market basket inflation projection was understated because of the way we measured increases in the wage component of the market basket. Specifically, commenters were concerned that the wage component of the market basket, which is comprised of external, as well as internal, price proxies, does not adequately account for the fact that hospital wages are increasing faster than other industry wages. The commenters recommended that only internal proxies such as the Bureau of Labor Statistics Employment Cost Index (ECI) for hospitals be used in the market basket forecasts. ProPAC also recommended that we review our forecasting methodology and address the issue of hospital wage forecasts.

Response: The rebased hospital market basket was established in FY 1987 and we have not proposed any changes to the market basket forecasting methodology for FY 1989. The methodology we used to forecast the market basket inflation for FY 1989 is consistent with that outlined in the September 3, 1986, **Federal Register** at 51 FR 31461. We do not believe it is appropriate to make changes to specific market basket components without also examining all of the other components of the market basket. While changing the proxy measures used in the wage component of the market basket may result in a higher inflation forecast for that component, it is also possible that further analysis of the appropriateness of the forecasting measures used in the other components of the market basket could result in lower forecasts being developed. Therefore, we do not believe it is appropriate to adopt changes to various components of the market basket and that any revisions should be made only in conjunction with a complete rebasing of the market basket. Absent rebasing, we believe it is important that the model we use in developing the market basket forecasts be carried forward over a period of years so that forecasts will be consistent from year to year.

We agree that the issue of appropriate wage proxies warrants further consideration and we acknowledged in the September 3, 1986 **Federal Register** that the ECI for hospitals may provide a better measure for forecasting hospital wage increases in the future. As of this date, we do not believe there is enough historical data available to permit reliable forecasts because the ECI is a newly developed measure. (We will, however, consider incorporating the ECI measure into the market basket once sufficient data are available.)

Comment: We received one comment critical of separate update factors for hospitals located in large urban areas. The commenter asserted that an update factor for hospitals located in large urban areas that is greater than the update factor for hospitals located in other urban areas is grossly unfair to other hospitals nationwide.

Response: Because a separate update factor for hospitals in large urban areas is mandated by Congress, we have no choice but to implement the requirement.

5. Other Adjustments to the Average Standardized Amounts

a. Indirect Medical Education Section 1886(d)(3)(C)(ii) of the Act provides that, effective for discharges occurring on or after October 1, 1986, the average standardized amounts be further reduced, taking into consideration the effects of the standardization for indirect medical education costs as described in section II.A.1.a. of this addendum. The required adjustment is to ensure that the program savings that would be achieved through standardizing for indirect medical education on one basis and computing indirect medical education payments on another basis are preserved. The first such adjustment was implemented for the standardized amounts effective October 1, 1986. (See the September 3, 1986 final rule (51 FR 31521).) Section 1886(d)(3)(C)(ii) of the Act, as amended by section 4003(a)(2) of Pub. L. 100–203, now requires a revision of the adjustment due to the revision of the adjustment factor for computing indirect medical education payments effective October 1, 1988.

Specifically, for each geographic area (regional and national, large urban, other urban, and rural), total payments including indirect medical education and disproportionate share hospital adjustments, based on payment rates for FY 1989, standardized for a curvilinear indirect medical education factor (of approximately 7.7 percent) and for disproportionate share, shall be neither more nor less than the estimated total of payments, including indirect medical education adjustment payments, that would have been made based on rates standardized for an 11.59 percent linear indirect medical education factor and paid out at approximately 8.3 percent on a curvilinear basis. The adjustment is performed on a regional basis in order to reflect congressional intent that the necessary calculations will not redistribute payments among the regions.

Through this adjustment, Congress is ensuring that total prospective payments, on a regional basis, taking into consideration the restandardization of rates for disproportionate share payments and for a revised indirect medical education payment factor of

approximately 7.7 percent on a curvilinear basis, will equal payments that would have resulted with rates standardized for an 11.59 percent indirect medical education adjustment factor, and payments computed using an indirect medical education factor of approximately 8.3 percent applied on a curvilinear basis. Since the first such adjustment already ensures system savings equal to those that would have been achieved by a reduction in indirect medical education payments from 11.59 percent on a linear basis to about 8.7 percent on a curvilinear basis, the only further adjustment necessary is to achieve the incremental savings that would result from a further reduction in indirect medical education payments from approximately 8.7 percent to about 8.3 percent, both on a curvilinear basis. Therefore, under section 1886(d)(3)(C)(ii) of the Act, for FY 1989, we adjusted the large urban, other urban, and rural regional and national standardized amounts to account for indirect medical education.

Because there is no specific reference in the Act to making this adjustment for hospitals in Puerto Rico, this adjustment was not made to the Puerto Rico standardized amounts. It is reflected, however, in the discharge-weighted national average standardized amount applicable to Puerto Rico.

The factors applied to the standardized amounts are shown in the table below:

	Large urban and other urban	Rural
1. New England (CT, ME, MA, NH, RI, VT)	0.99702	0.99951
2. Middle Atlantic (PA, NJ, NY)	0.99610	0.99917
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	0.99862	0.99976
4. East North Central (IL, IN, MI, OH, WI)	0.99771	0.99979
5. East South Central (AL, KY, MS, TN)	0.99779	0.99998
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	0.99754	0.99989
7. West South Central (AR, LA, OK, TX)	0.99887	0.99998
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	0.99804	0.99995
9. Pacific (AK, CA, HI, OR, WA)	0.99853	1.00000
10. National	0.99754	0.99982

b. Rural Hospitals Deemed to be Urban. Section 1886(d)(8)(B) of the Act, as added by section 4005(a) of Pub. L. 100–203, provides that certain rural hospitals will be deemed urban effective with discharges occurring on or after October 1, 1988. Section 1886(d)(8)(C) of the Act specifies two payment conditions that must be met. First, the FY 1989 urban standardized amounts are to be adjusted so as to ensure that total aggregate payments under the prospective payment system after implementation of this provision are equal to the aggregate prospective payments that would have been made absent the provision. Second, the rural standardized amounts are to be adjusted to ensure that aggregate payments to rural hospitals not affected by this provision neither increase nor decrease as a result of implementation of this provision. The following adjustment factors, necessary to achieve the requisite budget neutrality constraints, were applied to the proposed standardized amounts:

Urban	Rural
.99924	1.00075

The following adjustment factors were applied to the final standardized amounts.

Urban	Rural
.99924	1.00088

c. *Outliers.* Section 1886(d)(5)(A) of the Act requires that, in addition to the basic prospective payment rates, payments must be made for discharges involving day outliers and may be made for cost outliers. Section 1886(d)(3)(B) of the Act correspondingly requires that the urban and rural standardized amounts, respectively, be separately reduced by the proportion of estimated total DRG payments attributable to estimated outlier payments for hospitals located in urban areas and those located in rural areas. Section 1886(d)(9)(B)(iv) of the Act requires that the urban and rural standardized amounts be reduced by the proportion of estimated total payments made to hospitals in Puerto Rico attributable to estimated outlier payments.

Consequently, instead of the uniform reduction factor applying equally to all the standardized amounts, there are now two separate reduction factors, one applicable to the urban national and regional standardized amounts and the other applicable to the rural national and regional standardized amounts. Furthermore, sections 1886(d)(5)(A)(iv) and 1886(d)(9)(i) of the Act direct that outlier payments may not be less than five percent nor more than six percent of total payments projected to be made based on the prospective payment rates in any year.

In the September 1, 1987, final rule, we set the outlier thresholds so as to result in estimated outlier payments equal to five percent of total prospective payments. We also set the same outlier thresholds and offsets for the Puerto Rico prospective payment standardized amounts as we had for hospitals located outside Puerto Rico. Therefore, for FY 1988, we set the day outlier threshold at the lesser of 18 days of 2.0 standard deviations and the cost outlier threshold at the greater of $14,000 or 2.0 times the prospective payment rate for the DRG. The outlier adjustments for FY 1988 were .94441 for the urban rates and .97485 for the rural rates.

These adjustments were modified effective for discharges occurring on or after April 1, 1988 to .9441 for urban rates and .9746 for rural rates, with a budget neutrality factor of .997697, for the increase to 90 percent in the marginal cost fact for burn outliers in accordance with section 4008(d)(1)(A) of Pub. L. 100–203. (See the April 5, 1988, notice (53 FR 11137).) These thresholds and offsets were estimated to yield outlier payments of 5.1 percent of total prospective payments.

We proposed to set the outlier thresholds so as to result in estimated outlier payments equal to five percent of total prospective payments. Therefore, for FY 1989, we proposed to set the day outlier threshold at the geometric means length of stay plus the lesser of 24 days or 3.0 standard deviations and the cost outlier threshold at the greater of $27,000 or 2.0 times the prospective payment rate for the DRG.

The proposed outlier adjustment factors for FY 1989 are as follows:

OUTLIER REDUCTION FACTORS

Urban	Rural
.9446	.9781

Based on the final outlier policy as modified (see detailed discussion in section V.E. of the preamble to this final rule), the outlier pool is maintained at 5.1 percent.

The final outlier adjustment factors for FY 1989 are as follows:

OUTLIER REDUCTION FACTORS

Urban	Rural
.9437	.9777

The final outlier thresholds are as follows: For discharges on or after October 1, 1988 and before November 1,

1988, the day outlier threshold is the geometric mean length of stay for each DRG plus the lesser of 22 days or 2.0 standard deviations and the cost outlier threshold is the greater of 2.0 times the prospective payment rate for the DRG or $23,750. For discharges on or after November 1, 1988, the day outlier threshold is the geometric mean length of stay for each DRG plus the lesser of 24 days or 3.0 standard deviations and the cost outlier threshold is the greater of 2.0 times the prospective payment rate for the DRG or $28,000. Both these sets of thresholds are expected to yield aggregate outlier payments across all hospitals equal to 5.1 percent of total DRG-based payments.

B. Adjustments for Area Wage Levels and Cost-of-Living

This section contains an explanation of the application of two types of adjustments to the adjusted standardized amounts that will be made by the intermediaries in determining the prospective payment rates as described in section D below. For discussion purposes, it is necessary to present the adjusted standardized amounts divided into labor and nonlabor portions. Tables 1a, 1b, and 1c, as set forth in this addendum, contain the actual labor-related and nonlabor-related shares that would be used to calculate the prospective payment rates for hospitals located in the 50 States, the District of Columbia, and Puerto Rico.

1. Adjustment for Area Wage Levels

Section 1886(d)(2)(H) and 1886(d)(9)(C)(iv) of the Act require that an adjustment be made to the labor-related portion of the prospective payment rates to account for area differences in hospital wage levels. This adjustment is made by the intermediaries 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 IV of the preamble to this final rule, we discuss certain revisions we are making to the wage index. This index is set forth in Tables 4a and 4b of this addendum.

2. Adjustment for Cost of Living in Alaska and Hawaii

Section 1886(d)(5)(C)(iv) 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 account of in the adjustment for area wages above. For FY 1989, the adjustment necessary for nonlabor-related costs for hospitals in Alaska and Hawaii would be made by the intermediaries 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:	
Oahu	1.225
Kauai	1.175
Maui	1.20
Molokai	1.20
Lanai	1.20
Hawaii	1.15

The above factors are based on data obtained from the U.S. Office of Personnel Management.

C. DRG Weighting Factors

As discussed in section III of the preamble to this final rule, we have developed a classification system for all hospital discharges, sorting them into DRGs, and have developed weighting factors for each DRG that are intended to reflect the resource utilization of cases in each DRG relative to that of the average Medicare case.

Table 5 of section IV of this addendum contains the weighting factors that we will use for discharges occurring in FY 1989. These factors have been recalibrated as explained in section III of the preamble.

D. Calculation of Prospective Payment Rates for FY 1989

General Formula for Calculation of Prospective Payment Rates for FY 1989

Prospective Payment Rate for all hospitals located outside Puerto Rico except sole community hospitals = Federal Portion

Prospective Payment Rate for Sole Community Hospitals = 75 percent of the hospital-specific portion + 25 percent of the Federal portion

Prospective Payment Rate for Puerto Rico Hospitals = 75 percent of the Puerto Rico rate + 25 percent of a discharge-weighted average of the large urban, other urban, and rural national rates

1. Federal Portion

For discharges on or after October 1, 1988, and before October 1, 1989, except for sole community hospitals and hospitals located in Puerto Rico, the hospital's rate is comprised exclusively of the Federal rate. The Federal rate is comprised of 100 percent of the Federal national rate except for those hospitals located in regions affected by the regional floor, whose Federal rate equals 85 percent of the Federal national rate and 15 percent of the Federal regional rate. For sole community hospitals, the 25 percent Federal portion is based entirely on the Federal regional rate. The Federal rates are determined as follows:

Step 1—Select the appropriate regional or national adjusted standardized amount considering the type of hospital and designation of the hospital as large urban, other urban, or rural (see Tables 1a and 1b, section IV 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 and 4b, section IV 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—Sum the amount from step 2 and the nonlabor portion of the standardized amount (adjusted if appropriate under step 3).

Step 5—Multiply the final amount from step 4 by the weighting factor corresponding to the appropriate DRG (see Table 5, section IV of this addendum).

Step 6—For sole community hospitals, multiply the result in step 5 by 25 percent. The result is the Federal portion of the FY 1989 prospective payment for a given discharge for a sole community hospital.

2. Hospital-Specific Portion (Applicable Only to Sole Community Hospitals)

The hospital-specific portion of the prospective payment rate is based on a hospital's historical cost experience. For the first cost reporting period under prospective payment, a hospital-specific rate was calculated for each hospital, derived generally from the following formula:

$$\frac{\text{Base year costs per discharge}}{\text{1981 case-mix index}} \times \text{update factor} = \text{Hospital-specific rate}$$

For sole community hospitals, the hospital-specific portion equals 75 percent of the hospital-specific rate for all cost reporting periods beginning on or after October 1, 1983. For each subsequent cost reporting period, the hospital-specific portion is derived as follows:

Hospital-Specific Rate x Update Factor x Blending Percentage x DRG Weight

For a more detailed discussion of the hospital-specific portion, we refer the reader to the September 1, 1983 interim final rule (48 FR 39772).

a. Updating the Hospital-Specific Rates for FY 1989 Cost Reporting Periods. For cost reporting periods beginning on or after October 1, 1988, we proposed to increase the hospital-specific rates by—

- 3.3 percent (market basket percentage increase minus 1.5 percentage points) for hospitals located in rural areas;
- 2.8 percent (market basket percentage increase minus 2.0 percentage points) for hospitals located in large urban areas; and
- 2.3 percent (market basket percentage increase minus 2.5 percentage points) for hospitals located in other urban areas.

As required by section 1886(b)(3)(B) of the Act (as amended by section 4002 of Pub. L. 100–203), these were the same percentage increases by which we proposed to change the Federal rates for FY 1989.

Because the most recently forecasted market basket increase for FY 1989 is 5.4 percent, we are increasing the hospital-specific rates by—

- 3.9 percent (market basket percentage increase minus 1.5 percentage points) for hospitals located in rural areas;
- 3.4 percent (market basket percentage increase minus 2.0 percentage points) for hospitals located in large urban areas; and
- 2.9 percent (market basket percentage increase minus 2.5 percentage points) for hospitals located in other urban areas.

Comment: We received two comments requesting clarification of the appropriate update to the hospital-specific rate for sole community hospitals that are also rural referral centers, which receive 25 percent of their payments at the Federal other urban rate.

Response: In accordance with section 4002(g)(2)(C) of Pub. L. 100–203, the applicable percentage increase to the hospital-specific rates for sole community hospitals is provided for under section 4002(a) of Pub. L. 100–203. Under that section the percentage increase is applied based on the location of the hospital (that is, rural, large urban, or other urban). Therefore, for purposes of updating the hospital-specific portion of a sole community hospital's payment rate, the update is applied based on the hospital's location. The fact that a sole community hospital is also a rural referral center and receives 25 percent of its payment at the Federal regional other urban rate does not affect the update to its hospital-specific rate.

B. Calculation of Hospital-Specific Portion. For sole community hospital cost reporting periods beginning on or after October 1, 1988, the hospital-specific portion of a hospital's payment for a given discharge would be calculated by—

Step 1—Multiplying the hospital's hospital-specific rate for the preceding cost reporting period by the applicable update factor (that is, 3.9 percent for hospitals located in rural areas, 3.4 percent for hospitals located in large urban areas, and 2.9 percent for hospitals located in other urban areas);

Step 2—Multiplying the amount resulting from Step 1 by the specific DRG weighting factor applicable to the discharge; and

Step 3—Multiplying the result in step 2 by 75 percent. (The result is the hospital-specific portion of the FY 1989 prospective payment for a given discharge for a sole community hospital.)

3. General Formula for Calculation of Prospective Payment Rates for Hospitals Located in Puerto Rico Beginning on or after October 1, 1988 and Before October 1, 1989.

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, other urban, or rural designation of the hospital (see Table 1c, section IV of the addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the appropriate wage index (see Tables 4a and 4b, section IV of the addendum).

Step 3—Sum the amount from step 2 and the nonlabor portion of the standardized amount.

Step 4—Multiply the result in step 3 by 75 percent.

Step 5—Multiply the amount from step 4 by the weighting factor corresponding to the appropriate DRG weight (see Table 5, section IV 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, section IV of the addendum) by the appropriate wage index.

Step 2—Sum the amount from step 1 and the nonlabor portion of the national average standardized amount.

Step 3—Multiply the result in step 2 by 25 percent.

Step 4—Multiply the amount from step 3 by the weighting factor corresponding to the appropriate DRG weight (see Table 5, section IV 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. Target Rate Percentages for Hospitals and Hospital Units Excluded From the Prospective Payment System

A. Background

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 § 413.40 of the regulations. Under these limits, an annual 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 update factors. This target amount is applied as a ceiling on the

allowable costs per discharge for the hospital's next cost reporting period.

A hospital that has inpatient operating costs per discharge in excess of its target amount would be paid no more than that amount. However, a hospital that has inpatient operating costs less than its target amount would be paid its costs plus the lower of (1) 50 percent of the difference between the inpatient operating cost per discharge and the target amount, or (2) five percent of the target amount.

Each hospital's target amount is adjusted annually, before the beginning of its cost reporting period, by an applicable target rate percentage. For cost reporting periods beginning on or after October 1, 1988, section 1886(b)(3)(B)(ii) of the Act, as amended by section 4002(e) of Pub. L. 100–203, provides that the applicable percentage increase is the market basket percentage increase. Also, under section 4002(g)(3)(C) of Pub. L. 100–203, the hospital target amount for the cost reporting period beginning in FY 1988 is deemed to have been increased by 2.7 percent (rather than 315/366 multiplied by 2.7, which was the actual target rate of increase applicable for this period). Therefore, in order to determine a hospital's target amount for its cost reporting period beginning in FY 1989, the following steps apply:

- Increase the hospital target amount for its reporting period which began in FY 1987 by 2.7 percent;
- Increase the result of step one by the market basket percentage increase for FY 1989.

The most recent forecasted hospital market basket increase for FY 1989 is 5.4 percent. Therefore, the applicable percentage increase is also 5.4.

IV. 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 through 5 that were first used in the September 1, 1983, initial prospective payment final rule (48 FR 39844). Tables 1a, 1b, 1c, 3c, 4a, 4b, 5, 6a, 6b, 6c, 6d, 6e, 7a, 7b, and 8 are presented below. The tables are as follows:

Table 1a—National Adjusted Standardized Amounts, Labor/Nonlabor
Table 1b—Regional Adjusted Standardized Amounts, Labor/Nonlabor
Table 1c—Adjusted Standardized Amounts for Puerto Rico, Labor/Nonlabor
Table 3c—Hospital Case-Mix Indexes for Discharges Occurring in FY 1987
Table 4a—Wage Index for Urban Areas
Table 4b—Wage Index for Rural Areas
Table 5—Diagnosis-Related Groups
Table 6a—New Diagnosis Codes
Table 6b—New or Revised Procedure Codes
Table 6c—Elective Diagnostic and Other Nonextensive Procedures Unrelated to Principal Procedures that Group to DRG 477
Table 6d—Additions to the CC Exclusions List
Table 6e—Deletions from the CC Exclusions List
Table 7a—Length-of-Stay Percentiles Using FY 1988 DRG Classification (Grouper V5.0)
Table 7b—Length-of-Stay Percentiles Using FY 1989 DRG Classification (Grouper V6.0)
Table 8—Statewide Average Cost-to-Charge Ratios for Urban and Rural Hospitals

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This section contains the tables referred to in this preamble.

Table 1a -- NATIONAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

Large Urban		Other Urban		Rural	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
2374.22	840.95	2351.10	832.75	2219.89	614.82

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Table 1b -- REGIONAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

	Large Urban		Other Urban		Rural	
	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
1. New England (CT, ME, MA, NH, RI, VT)	2492.76	877.87	2468.48	869.32	2459.67	729.25
2. Middle Atlantic (PA, NJ, NY)	2239.44	833.05	2217.63	824.94	2358.50	687.99
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	2390.57	767.55	2367.29	760.07	2251.81	597.80
4. East North Central (IL, IN, MI, OH, WI)	2520.39	907.78	2495.85	898.94	2281.73	664.15
5. East South Central (AL, KY, MS, TN).19	2294.31	695.00	2271.96	688.23	2231.78	557.45
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	2391.22	827.47	2367.93	819.41	2169.19	595.56
7. West South Central (AR, LA, OK, TX)	2384.08	762.35	2360.87	754.92	2080.31	547.70
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	2292.60	817.28	2270.27	809.33	2114.98	634.0€
9. Pacific (AK, CA, HI, OR, WA)	2230.84	932.77	2209.12	923.68	2046.07	709.66

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Table 1c -- ADJUSTED STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Large Urban		Other Urban		Rural	
	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
Puerto Rico	2109.03	377.31	2088.51	373.63	1483.55	274.62

National	Labor-related	Nonlabor-related
	2326.77	780.76

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 1 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
010001	01.2326	010059	00.9752	010120	00.9523	030001	01.1511	030069	01.2473
010004	00.9827	010060	00.9946	010121	01.0632	030002	01.4584	030071	00.8946
010005	01.1482	010061	00.9725	010122	00.9999	030003	01.2052	030072	00.9274
010006	01.1468	010062	00.9539	010123	01.1739	030004	00.9035	030073	01.0110
010007	00.9585	010064	01.4247	010124	01.1858	030006	01.3400	030074	00.9614
010008	00.9916	010065	01.0610	010125	00.9988	030007	01.1925	030075	00.8794
010009	01.0899	010066	00.8614	010126	01.0109	030008	01.3034	030076	00.9162
010010	01.0012	010067	00.9006	010127	01.2076	030009	01.2325	030077	00.8597
010011	01.2710	010068	01.1489	010128	01.0245	030010	01.3217	030078	01.1175
010012	01.2291	010069	01.0518	010129	01.0587	030011	01.2431	030079	00.8491
010015	01.1105	010070	01.1798	010130	01.0385	030012	01.1041	030080	01.3398
010016	01.2014	010072	01.1163	010131	01.1328	030013	01.1339	030081	00.9327
010018	00.9938	010073	00.9417	010133	00.8159	030014	01.2545	030082	01.0478
010019	01.1287	010074	00.9266	010134	00.8992	030016	01.1023	030083	01.1704
010020	01.0871	010075	01.0712	010136	01.0308	030017	01.1902	030084	01.2003
010021	01.1639	010078	01.1643	010137	01.2078	030018	01.3230	030085	01.0812
010022	00.9925	010079	01.1047	010138	01.0387	030019	01.1110	030086	01.1221
010023	01.1879	010080	01.0223	010139	01.4320	030020	01.2899	030087	01.1544
010024	01.1782	010081	01.5293	010142	00.9596	030022	01.2860	030088	01.2038
010025	01.1252	010083	01.0588	010143	01.0860	030023	01.2172	030089	01.1414
010026	00.9343	010084	01.3077	010144	01.1196	030024	01.4611	030091	00.9361
010027	01.0802	010085	01.2132	010145	01.1705	030025	01.1151	040001	01.0474
010028	01.0035	010086	00.9815	010146	01.0019	030027	01.0284	040002	01.0458
010029	01.2072	010087	01.2773	010148	01.0365	030030	01.4662	040003	00.9772
010030	00.9384	010089	01.0286	010149	01.2263	030033	01.1862	040004	01.2978
010031	01.1764	010090	01.2469	010150	01.0179	030034	01.0997	040005	01.0608
010032	00.9108	010091	01.0038	010152	01.1770	030035	01.1434	040006	01.0145
010033	01.7332	010092	01.2913	010153	01.0218	030036	01.1633	040007	01.3832
010034	01.0078	010094	01.0852	020001	01.3432	030037	01.6396	040008	01.0904
010035	01.0618	010095	01.0139	020002	01.0833	030038	01.4327	040009	00.9725
010036	01.0732	010096	00.9126	020004	01.1321	030040	01.1282	040010	01.1421
010038	01.0477	010097	01.0181	020005	00.9477	030041	00.9396	040011	00.9311
010039	01.5290	010098	01.0767	020006	01.0644	030043	01.0676	040013	01.0762
010040	01.1443	010099	01.0164	020007	00.9699	030044	01.0875	040014	01.1614
010041	00.8485	010100	01.1558	020008	01.0207	030046	00.9606	040015	01.0986
010043	00.9378	010101	01.0178	020009	00.8839	030047	00.9897	040016	01.3326
010044	00.9197	010102	00.9693	020010	00.9425	030049	01.0155	040017	01.1458
010045	01.0085	010103	01.4175	020011	00.9705	030051	01.0424	040018	01.1583
010046	01.1119	010104	01.4607	020012	01.2413	030054	01.0482	040019	01.1599
010047	00.9721	010108	01.0957	020013	00.9547	030055	01.0957	040020	01.3803
010049	00.9900	010109	01.0670	020014	00.9876	030057	01.2444	040021	00.9874
010050	00.9800	010110	00.9454	020017	01.1370	030059	01.1792	040022	01.4345
010051	00.8995	010111	00.8524	020018	00.9752	030060	01.1601	040024	00.9757
010052	00.9933	010112	01.0391	020019	00.9236	030061	01.3327	040025	00.9367
010053	01.0764	010113	01.3830	020020	00.8918	030062	01.1898	040026	01.2167
010054	01.1039	010114	01.1188	020021	00.8909	030063	01.1885	040027	01.1981
010055	01.2913	010115	00.9945	020024	01.1326	030064	01.3908	040028	01.0787
010056	01.1932	010117	00.9376	020025	00.8795	030065	01.3682	040029	01.0552
010057	01.1111	010118	01.1521	020026	01.2419	030067	00.9694	040030	00.9494
010058	01.0988	010119	01.1362	020027	00.8488	030068	01.0753	040031	01.0001

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
040032	00.9519	040107	01.0550	050051	01.0349	050110	01.1212	050170	01.2938
040033	00.8613	040108	00.9330	050052	01.1297	050111	01.2054	050172	01.1727
040035	00.9496	040109	01.1746	050053	01.1942	050112	01.3187	050173	01.2366
040036	01.1639	040114	01.6273	050054	01.1773	050113	01.1644	050174	01.4587
040037	01.0489	040115	01.0141	050055	01.2066	050114	01.3125	050175	01.1801
040039	00.9804	040116	01.1656	050056	01.1681	050115	01.2790	050177	01.3218
040040	00.9766	040118	01.0583	050057	01.2346	050116	01.3453	050179	01.1532
040041	01.1563	040119	01.1932	050058	01.2952	050117	01.1643	050180	01.3405
040042	01.2206	040122	01.0110	050060	01.3161	050118	01.1352	050181	01.1945
040043	00.9671	040123	00.8567	050061	01.2117	050119	00.8513	050183	01.1083
040044	00.9669	040124	01.0655	050063	01.2819	050121	01.1124	050186	01.1842
040045	00.9425	040126	00.9846	050065	01.3002	050122	01.3857	050187	01.1527
040047	01.0063	040128	00.8907	050066	01.1847	050124	01.2872	050188	01.2429
040048	01.1509	040130	01.0666	050067	01.1385	050125	01.1478	050189	00.9874
040050	01.0511	050002	01.1764	050068	01.0795	050126	01.2755	050190	01.2257
040051	00.8993	050004	01.1535	050069	01.3932	050127	01.2509	050191	01.3040
040053	00.9998	050006	01.1698	050070	01.1624	050128	01.3297	050192	01.0054
040054	01.0857	050007	01.3783	050071	01.1589	050129	01.4718	050193	01.2857
040055	01.2504	050008	01.2765	050072	01.2268	050131	01.1810	050194	01.2139
040058	00.9284	050009	01.3227	050073	01.1490	050132	01.2122	050195	01.2134
040060	00.9861	050011	01.1709	050074	00.9571	050133	01.1753	050196	01.1795
040062	01.1487	050013	01.9363	050075	01.2201	050134	01.2632	050197	01.6740
040063	01.2939	050014	01.1724	050076	01.4399	050135	01.4927	050199	01.0924
040064	00.9781	050015	01.2401	050077	01.4627	050136	01.2398	050201	01.0352
040066	00.9531	050016	01.1049	050078	01.1945	050137	01.1804	050202	01.2028
040067	01.0361	050017	01.6328	050079	01.2249	050138	01.4070	050204	01.4118
040069	01.0222	050018	01.1181	050080	01.1222	050139	01.2104	050205	01.1104
040070	00.9548	050019	00.9183	050081	01.4206	050140	01.2037	050207	01.1957
040071	01.1809	050021	01.1291	050082	01.2343	050141	01.1652	050208	01.1763
040072	01.0263	050022	01.3316	050084	01.3652	050143	01.1946	050211	01.2401
040074	01.0435	050024	01.1327	050086	01.1496	050144	01.3177	050212	01.1085
040075	01.1096	050025	01.4615	050087	01.2771	050145	01.2444	050213	01.1931
040076	00.9710	050026	01.3338	050088	01.1251	050146	01.2513	050214	01.3500
040077	00.9056	050028	01.2480	050089	01.1949	050147	00.8587	050215	01.3004
040078	01.2142	050029	01.1908	050090	01.1912	050148	01.1001	050217	01.1654
040080	00.9798	050030	01.1562	050091	01.2023	050149	01.1653	050219	01.2680
040081	00.8784	050032	01.1140	050092	01.0918	050150	01.2080	050220	01.0928
040082	01.1769	050033	01.3075	050093	01.4484	050151	01.2347	050221	01.2240
040084	01.0541	050034	01.1496	050095	01.1156	050152	01.2301	050222	01.1663
040085	01.0170	050036	01.2379	050096	01.1529	050153	01.4672	050224	01.2664
040087	00.9833	050038	01.2364	050097	01.1904	050154	01.1838	050225	01.1667
040088	01.1673	050039	01.4377	050099	01.3096	050155	01.1705	050226	01.4171
040090	00.9488	050040	01.1244	050100	01.6759	050158	01.4515	050228	01.2258
040091	01.0882	050041	01.1344	050101	01.2553	050159	01.1934	050229	01.2172
040093	01.0607	050042	01.1652	050102	01.2586	050161	01.1763	050230	01.2068
040095	00.9795	050043	01.5202	050103	01.3912	050164	01.2589	050231	01.3467
040098	01.1740	050045	01.1157	050104	01.2329	050166	01.0435	050232	01.5514
040100	01.0803	050046	01.1022	050107	01.2421	050167	01.2774	050233	01.1450
040105	01.0074	050047	01.5079	050108	01.3257	050168	01.3860	050234	01.1921
040106	01.0433	050049	01.1498	050109	01.8622	050169	01.3664	050235	01.3089

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 3 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
050236	01.1697	050308	01.4251	050381	00.9313	050451	00.9737	050542	01.0711
050238	01.2033	050309	01.2055	050382	01.3623	050454	01.6698	050543	01.1701
050239	01.2692	050310	01.0973	050383	01.0812	050455	01.4948	050544	01.1651
050240	01.2393	050312	01.3379	050385	01.2003	050456	01.3141	050545	00.8189
050241	01.1455	050313	01.1169	050387	00.9867	050457	01.4034	050546	00.9793
050242	01.2782	050315	01.2368	050388	00.9475	050458	00.7623	050547	00.9489
050243	01.2628	050317	01.1861	050390	01.2119	050459	01.2538	050549	01.4060
050245	01.3695	050318	00.9620	050391	01.1679	050464	01.6342	050550	01.2607
050248	01.0876	050319	01.2455	050392	01.0226	050467	01.2025	050551	01.2625
050251	01.0772	050320	01.1096	050393	01.2744	050468	01.2752	050552	01.1426
050253	01.2029	050324	01.5887	050394	01.3726	050469	00.9540	050557	01.2173
050254	01.1502	050325	01.1948	050395	01.1469	050470	01.0661	050559	01.2159
050256	01.5362	050326	01.2535	050396	01.4297	050471	01.4945	050560	01.0983
050257	01.2158	050327	01.4997	050397	01.0432	050473	01.2016	050561	01.1095
050258	01.2768	050328	01.1739	050401	01.2163	050476	01.2141	050562	01.1090
050260	01.0763	050329	01.2136	050404	01.0911	050477	01.1373	050564	01.1469
050261	01.1082	050331	01.2502	050406	01.0432	050478	01.1400	050565	01.1532
050262	01.5029	050333	01.0881	050407	01.1716	050481	01.2544	050566	00.9507
050263	01.1890	050334	01.2067	050410	01.0856	050482	01.0202	050567	01.2828
050264	01.2592	050335	01.0821	050411	01.2168	050483	01.2118	050568	01.1835
050267	01.3725	050336	01.2397	050413	01.3121	050485	01.4126	050569	01.2661
050268	01.2115	050337	01.1109	050414	01.0825	050486	01.3080	050570	01.4575
050269	01.1750	050338	01.9344	050417	01.1450	050488	01.2058	050571	01.2479
050270	01.2251	050342	01.1725	050418	01.0670	050489	01.1527	050573	01.4057
050272	01.2437	050343	01.1355	050419	01.1654	050491	01.2454	050575	01.0851
050273	00.9347	050345	01.2793	050420	01.1987	050492	01.1265	050577	01.2816
050274	00.9385	050348	01.3629	050421	01.2230	050494	01.0349	050578	01.0913
050276	01.0836	050349	00.9388	050423	01.0321	050496	01.5932	050579	01.2391
050277	01.2137	050350	01.2764	050424	01.4488	050497	00.8454	050580	01.1103
050278	01.2689	050351	01.3885	050425	01.2021	050498	01.1883	050581	01.2198
050279	01.1419	050352	01.0977	050426	01.1178	050502	01.6337	050583	01.5509
050280	01.2037	050353	01.5300	050427	00.9289	050503	01.2923	050584	01.1489
050281	01.2743	050355	00.9817	050430	00.9028	050506	01.2422	050585	01.2399
050282	01.2212	050357	01.4623	050431	01.0984	050510	01.1350	050586	01.1286
050283	01.2459	050359	01.0939	050432	01.2676	050512	01.1424	050587	01.2430
050286	01.0628	050360	01.1913	050433	00.9827	050515	01.3007	050588	01.2149
050289	01.5442	050361	00.9200	050434	01.0430	050516	01.2587	050589	01.1996
050290	01.3493	050362	01.0490	050435	01.1642	050517	01.1408	050590	01.1986
050291	01.2163	050363	01.1157	050436	01.0514	050522	01.1829	050591	01.1566
050292	01.1483	050366	01.1632	050438	01.3698	050523	01.1434	050592	01.2422
050293	00.9903	050367	01.2323	050440	01.1185	050526	01.1299	050593	01.1024
050295	01.2587	050369	01.1720	050441	01.5793	050527	01.1915	050594	02.0687
050296	01.1100	050371	01.0023	050442	01.1727	050528	01.1444	050597	01.1489
050298	01.0784	050372	01.1218	050443	00.9420	050530	01.2143	050598	01.1974
050299	01.2564	050373	01.1024	050444	01.1403	050531	01.2004	050599	01.3189
050300	01.2305	050376	01.3245	050446	00.9367	050534	01.1904	050601	01.1815
050301	01.1827	050377	01.0378	050447	01.2971	050535	01.2519	050603	01.3764
050302	01.2738	050378	01.0564	050448	00.9929	050537	01.2644	050604	01.1855
050305	01.3100	050379	01.0196	050449	01.1943	050539	01.2673	050605	01.0769
050307	01.3352	050380	01.5160	050450	00.8636	050541	01.3753	050607	01.1692

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 4 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
050608	01.1211	060011	01.1976	060068	01.1372	070030	01.1440	100027	01.0140
050609	01.2478	060012	01.3181	060070	01.1401	070031	01.2629	100028	01.1516
050613	00.9933	060013	01.2568	060071	01.2702	070033	01.1926	100029	01.2475
050615	01.1980	060014	01.4121	060072	00.9533	070034	01.2275	100030	01.0654
050616	01.0949	060015	01.3480	060073	00.9044	070035	01.2947	100032	01.2082
050618	01.0043	060016	01.2132	060074	01.1121	070036	01.2653	100033	01.2663
050619	01.2326	060017	01.2328	060075	01.1746	070038	01.0237	100034	01.3636
050622	01.1271	060018	01.1673	060076	01.2575	080001	01.3118	100035	01.2068
050623	01.1779	060019	01.2249	060077	00.9715	080002	01.1190	100036	01.2258
050624	01.2054	060020	01.3287	060083	01.0622	080003	01.1918	100038	01.3995
050625	01.3705	060022	01.4964	060085	00.9374	080004	01.2262	100039	01.2712
050630	01.0477	060023	01.3362	060087	01.1099	080005	01.1147	100040	01.3593
050633	01.2028	060024	01.4097	060088	01.0408	080006	01.0545	100042	01.1365
050635	01.2244	060026	01.3203	060090	00.9835	080007	01.1822	100043	01.2494
050636	01.2233	060027	01.2466	060092	00.9989	090001	01.3017	100044	01.2295
050637	01.1803	060028	01.3785	060093	00.9264	090002	01.0460	100045	01.2449
050638	00.9246	060029	01.0242	060096	01.1525	090003	01.2090	100046	01.1632
050641	01.1216	060030	01.2017	060097	00.6840	090004	01.3580	100047	01.2031
050643	00.9872	060031	01.3956	060098	01.1531	090005	01.2314	100048	00.9686
050644	01.1445	060032	01.3642	060099	00.8597	090006	01.2170	100049	01.1644
050646	01.0760	060033	01.2368	060101	01.6978	090007	01.0869	100050	01.0950
050649	01.0188	060034	01.2206	070001	01.6608	090008	01.1229	100051	01.0798
050650	01.2302	060035	01.1680	070002	01.5232	090009	01.1323	100052	01.2684
050651	01.2054	060036	01.1344	070003	01.2272	090010	01.0663	100053	01.1518
050660	01.2451	060037	00.9806	070004	01.1499	090011	01.5813	100054	01.2486
050661	01.0623	060038	01.1024	070005	01.3081	100001	01.2650	100055	01.1801
050662	00.9860	060039	01.1011	070006	01.1831	100002	01.2920	100056	01.1583
050663	01.1209	060041	00.9621	070007	01.2336	100004	01.1071	100057	01.2092
050666	00.8808	060042	01.0339	070008	01.1527	100005	01.0520	100059	01.4121
050667	01.1278	060043	00.9797	070009	01.1747	100006	01.3931	100060	01.4196
050668	01.3447	060044	01.2176	070010	01.4015	100007	01.6316	100061	01.2248
050669	00.7866	060045	01.0210	070011	01.2085	100008	01.3859	100062	01.2042
050671	01.0349	060046	01.1347	070012	01.1597	100009	01.3594	100063	01.1657
050672	00.6935	060047	01.1120	070013	01.1890	100010	01.2392	100065	01.1080
050674	01.2315	060049	01.0478	070014	01.1745	100011	01.0087	100067	01.2683
050675	01.2920	060050	01.1561	070015	01.1986	100012	01.2625	100068	01.1668
050676	00.8918	060051	01.2635	070016	01.2357	100013	00.9408	100069	01.1936
050677	01.2285	060052	00.8813	070017	01.2677	100014	01.1574	100070	01.2527
050678	01.1640	060053	00.8727	070018	01.2017	100015	01.1480	100071	01.2635
050679	01.0716	060054	01.2432	070019	01.1758	100016	01.0388	100072	01.1504
050680	01.0881	060056	00.9474	070020	01.2570	100017	01.2634	100073	01.4610
060001	01.4102	060057	01.2130	070021	01.2100	100018	01.2598	100074	01.1461
060003	01.1623	060058	01.0012	070022	01.5728	100019	01.2644	100075	01.4457
060004	01.0695	060060	01.0845	070023	01.2030	100020	01.2008	100076	01.0943
060005	01.4011	060062	00.9969	070024	01.1931	100021	01.1920	100077	01.2369
060006	01.2493	060063	01.0602	070025	01.5018	100022	01.4026	100078	01.0825
060007	01.1534	060064	01.2589	070026	01.1403	100023	01.1877	100079	01.2283
060008	01.1715	060065	01.1956	070027	01.2435	100024	01.1880	100080	01.2295
060009	01.2324	060066	01.0251	070028	01.3361	100025	01.4227	100081	01.0334
060010	01.4590	060067	01.0367	070029	01.2115	100026	01.3427	100082	01.2804

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 5 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
100083	01.1214	100147	01.0232	100217	01.0985	100276	01.1411	110054	01.1902
100084	01.3036	100149	01.1541	100218	01.1286	100277	01.0751	110055	00.9572
100085	01.1715	100150	01.2482	100219	01.2143	110001	01.0990	110056	00.9252
100086	01.1990	100151	01.5300	100220	01.4893	110002	01.1899	110059	01.0561
100087	01.5416	100152	01.1840	100221	01.6017	110003	01.1595	110061	00.8721
100088	01.3046	100154	01.3359	100222	01.1379	110004	01.2374	110062	00.9532
100089	01.1680	100156	01.0555	100223	01.2399	110005	01.1466	110063	01.0171
100090	01.1297	100157	01.3379	100224	01.1936	110006	01.1648	110064	01.1879
100092	01.1516	100159	01.0137	100225	01.1634	110007	01.2933	110065	01.0664
100093	01.2597	100160	01.0592	100226	01.1680	110008	01.0034	110066	01.1886
100098	00.9954	100161	01.2672	100227	01.1422	110009	01.0164	110069	01.0545
100099	01.1627	100162	01.2298	100228	01.1557	110010	01.8287	110070	00.9424
100100	01.1660	100164	00.9936	100229	01.2040	110011	01.1098	110071	00.9361
100102	01.0572	100165	00.9328	100230	01.1478	110013	01.0033	110072	00.9332
100103	00.9617	100166	01.2684	100231	01.4852	110014	01.0751	110073	01.0056
100105	01.1780	100167	01.1745	100232	01.0630	110015	01.0456	110074	01.1968
100106	01.0898	100168	01.2320	100234	01.1834	110016	01.2068	110075	01.0790
100107	01.1504	100169	01.5019	100235	01.2051	110017	00.9189	110076	01.2582
100108	01.0158	100170	01.2013	100236	01.2551	110018	01.1162	110077	00.9553
100109	01.1572	100172	01.1682	100237	01.7069	110020	01.1181	110078	01.4300
100110	01.2033	100173	01.1970	100238	01.2007	110023	01.1260	110079	01.0709
100112	00.9705	100174	01.3936	100239	01.3183	110024	01.1918	110080	01.0439
100113	01.6378	100175	01.0739	100240	00.7524	110025	01.1641	110081	01.0152
100114	01.2434	100176	01.6689	100241	01.0354	110026	00.9777	110082	01.6958
100115	01.1021	100177	01.1738	100242	01.1828	110027	01.0289	110083	01.2266
100117	01.2009	100179	01.3485	100243	01.1845	110028	01.3716	110085	01.1357
100118	01.1374	100180	01.2782	100244	01.1745	110029	01.1365	110086	01.1598
100120	01.1849	100181	01.0896	100246	01.1921	110030	01.1362	110087	01.1457
100121	01.0918	100183	01.1564	100248	01.4440	110031	01.1320	110088	00.8578
100122	01.1202	100185	01.0604	100249	01.0938	110032	01.1380	110089	01.1068
100124	01.1521	100186	01.2540	100252	01.1625	110033	01.1275	110091	01.1828
100125	01.1730	100187	01.1638	100253	01.2407	110034	01.2261	110092	01.0533
100126	01.1924	100189	01.1943	100254	01.2449	110035	01.1439	110093	00.9940
100127	01.3279	100191	01.2211	100255	01.1895	110036	01.4023	110094	00.9063
100128	02.0680	100194	01.1930	100256	01.2401	110037	01.1121	110095	01.2218
100129	01.1832	100195	01.1454	100258	01.2541	110038	01.2026	110096	01.0257
100130	01.1835	100196	01.2414	100259	01.1442	110039	01.1499	110097	00.9930
100131	01.1726	100199	01.1688	100260	01.1865	110040	00.9876	110098	00.9250
100132	01.1971	100200	01.2143	100262	01.2268	110041	01.1188	110099	00.9002
100134	00.9198	100203	01.2268	100263	01.1824	110042	01.0043	110100	01.0577
100135	01.4317	100204	01.3858	100264	01.2480	110043	01.3650	110101	00.9785
100137	01.1561	100206	01.1481	100265	01.1640	110044	01.1265	110103	00.9932
100138	00.9980	100207	01.2155	100266	01.1231	110045	01.0165	110104	01.0595
100139	01.1437	100208	01.2043	100267	01.1706	110046	01.1692	110105	01.1462
100140	01.0709	100209	01.2553	100268	01.1524	110047	00.9518	110107	01.4244
100142	01.0590	100210	01.4801	100269	01.2058	110048	01.0794	110108	00.9354
100143	00.9901	100211	01.2115	100270	00.9145	110049	00.9272	110109	00.9550
100144	01.0542	100212	01.1989	100271	01.3351	110050	01.0110	110111	01.0046
100145	01.1761	100213	01.2966	100273	00.9290	110051	00.9299	110112	00.9095
100146	01.0265	100214	01.3223	100275	01.1584	110052	00.8919	110113	01.0012

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: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
110114	01.0666	110177	01.1728	130009	00.9160	140014	01.0648	140075	01.2657
110115	01.3495	110178	00.9652	130010	00.9715	140015	01.1349	140077	00.9590
110117	00.9281	110179	01.1251	130011	01.2369	140016	01.0203	140079	01.1506
110118	00.9707	110181	01.0275	130012	00.9439	140017	01.2303	140080	01.5767
110120	00.9530	110183	01.1348	130013	01.1368	140018	01.2661	140081	01.0961
110121	00.9477	110184	01.0664	130014	01.2141	140019	00.9243	140082	01.1860
110122	01.1643	110185	01.0895	130015	01.0064	140023	01.0925	140083	01.1173
110123	01.0167	110186	01.0529	130016	00.9384	140024	00.9942	140084	01.1587
110124	01.0002	110187	01.0680	130017	01.0420	140025	01.0868	140085	01.2184
110125	01.0892	110188	01.2201	130018	01.2531	140026	01.1194	140086	01.1162
110127	00.9975	110189	00.9884	130019	01.0912	140027	01.1289	140087	01.1623
110128	01.1128	110190	01.0988	130021	00.9150	140029	01.2148	140088	01.4734
110129	01.3191	110191	01.1644	130022	01.0824	140030	01.3118	140089	01.0999
110130	00.9304	110192	01.2109	130024	01.2022	140031	01.0638	140090	01.2816
110131	00.9945	110193	01.0391	130025	01.0080	140032	01.1423	140091	01.3171
110132	00.9855	110194	00.9824	130026	01.0680	140033	01.1144	140093	01.1222
110133	00.9605	110195	00.9757	130027	00.9140	140034	01.0697	140094	01.1027
110134	00.8703	110196	01.7174	130028	01.1942	140035	01.0602	140095	01.2163
110135	00.9957	110198	01.1872	130029	01.0920	140036	01.0728	140097	01.0625
110136	01.0594	110200	01.4254	130030	00.9356	140037	01.0275	140098	01.1586
110140	00.9338	110201	01.1419	130031	01.1104	140038	01.1665	140099	01.1419
110141	00.9359	110202	00.9427	130032	00.8910	140039	00.9762	140100	01.0986
110142	01.1183	110203	00.9362	130034	00.8999	140040	01.1571	140101	01.0669
110143	01.1186	120001	01.4300	130035	01.0469	140041	01.0610	140102	01.0127
110144	01.1437	120002	01.0866	130036	01.1555	140042	00.9543	140103	01.1310
110146	00.8863	120003	01.0884	130037	01.0627	140043	01.1389	140104	01.1081
110149	00.9568	120004	01.2368	130038	00.8877	140045	01.0253	140105	01.1765
110150	01.0863	120005	01.1435	130039	01.1146	140046	01.0983	140107	00.9390
110151	01.0022	120006	01.1367	130040	00.9890	140047	01.0486	140108	01.1690
110152	00.9727	120007	01.4438	130043	01.0209	140048	01.1218	140109	00.9724
110153	01.0172	120008	01.1843	130044	00.9838	140049	01.2616	140110	01.1450
110154	00.9615	120009	00.9588	130045	00.9712	140051	01.2006	140111	01.0468
110155	00.9679	120010	01.4583	130048	00.9971	140052	01.2332	140112	01.1207
110156	00.8574	120011	01.2913	130049	01.2204	140053	01.4871	140113	01.4091
110157	01.1439	120012	01.1149	130051	01.0416	140054	01.2730	140114	01.1184
110158	01.0647	120014	01.1274	130054	00.9275	140055	00.9340	140115	01.0411
110161	01.2238	120015	00.9574	130056	00.9523	140058	01.0660	140116	01.2265
110162	00.8457	120016	00.9860	130057	00.9910	140059	01.0358	140117	01.1926
110163	01.2091	120018	00.8676	140001	01.1461	140061	01.0860	140118	01.3511
110164	01.2145	120019	01.0601	140002	01.2281	140062	01.1668	140119	01.4723
110165	01.1392	120021	00.9727	140003	00.9838	140063	01.1686	140120	01.1121
110166	01.2092	120022	01.4674	140004	01.0488	140064	01.1661	140121	01.1272
110168	01.2754	120024	01.2270	140005	00.9026	140065	01.2080	140122	01.2224
110169	00.7199	130001	01.0500	140007	01.1697	140066	01.0686	140123	01.1223
110170	00.8892	130002	01.2556	140008	01.2481	140067	01.4644	140124	01.0427
110171	01.1629	130003	01.2152	140009	00.9997	140068	01.0836	140125	01.0938
110172	01.0920	130005	01.2307	140010	01.2889	140069	01.0603	140126	01.4044
110174	00.9131	130006	01.5211	140011	01.0667	140070	01.2722	140127	01.1479
110175	01.0171	130007	01.3575	140012	01.1821	140072	01.1070	140128	01.0564
110176	01.0982	130008	00.8965	140013	01.2233	140074	01.0768	140129	01.0219

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 7 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
140130	01.1555	140187	01.2370	140250	01.1867	150027	01.0606	150083	00.8502
140131	01.1682	140188	00.9894	140251	01.1927	150029	01.1798	150084	01.5558
140132	01.2927	140189	01.1034	140252	01.2134	150030	01.1503	150085	00.9815
140133	01.2156	140190	01.0006	140253	01.1553	150031	01.0076	150086	01.1056
140134	01.2063	140191	01.1576	140258	01.2554	150032	01.5987	150088	01.1000
140135	01.1308	140192	01.1076	140261	01.1214	150033	01.3435	150089	01.1968
140136	01.0299	140193	00.9755	140271	00.9776	150034	01.0791	150090	01.2391
140137	01.0917	140197	01.2707	140273	00.9810	150035	01.1565	150091	01.0874
140138	01.1524	140199	01.0478	140275	01.0976	150036	01.0300	150092	01.0637
140139	01.0766	140200	01.2477	140276	01.8194	150037	01.1267	150094	00.9919
140140	01.0747	140202	01.1704	140280	01.1236	150038	01.1459	150095	01.0594
140141	01.0154	140203	01.0762	140281	01.3833	150039	01.0164	150096	01.0215
140142	01.1322	140204	01.2213	140285	01.0699	150042	01.1471	150097	01.0676
140143	01.0868	140205	01.0946	140286	01.1515	150043	01.0878	150098	01.0928
140144	01.0476	140206	01.0580	140288	01.3560	150044	01.1304	150099	01.1212
140145	01.1353	140207	01.1774	140289	01.2294	150045	01.1425	150100	01.3262
140146	00.9625	140208	01.3257	140290	01.1802	150046	01.3053	150101	01.0564
140147	01.0604	140209	01.2747	140291	01.1910	150047	01.3340	150102	01.0158
140148	01.3634	140210	01.0262	140292	01.1491	150048	01.1659	150103	00.9938
140150	01.2576	140211	01.1308	140293	01.0124	150049	01.0094	150104	01.1014
140151	01.2174	140212	01.0579	140294	01.0812	150050	01.1424	150105	01.0863
140152	01.0645	140213	01.1383	140295	01.2226	150051	01.1932	150106	01.0466
140154	01.1194	140215	01.0643	140297	01.2102	150052	01.0091	150109	01.2185
140155	01.0991	140216	00.9263	140298	01.3022	150053	00.9835	150110	00.9458
140156	01.2046	140217	01.1776	140299	00.9070	150054	01.0328	150111	01.0930
140157	01.0110	140218	01.0324	150001	01.1036	150056	01.4378	150112	01.1460
140158	01.2138	140219	01.1862	150002	01.1556	150057	02.0030	150113	01.0785
140159	01.1293	140220	01.0899	150003	01.3308	150058	01.3998	150114	01.0309
140160	01.2204	140223	01.3517	150004	01.2123	150059	01.0869	150115	01.1942
140161	01.0232	140224	01.2627	150005	01.1385	150060	01.0760	150122	01.0678
140162	01.1768	140226	00.9656	150006	01.2144	150061	01.1086	150123	00.9722
140164	01.1935	140228	01.3990	150007	01.1032	150062	01.0080	150124	01.1435
140165	00.9995	140229	01.0432	150008	01.2045	150063	01.0983	150125	01.3012
140166	01.1459	140230	00.9552	150009	01.1952	150064	01.0627	150126	01.6383
140167	01.0727	140231	01.1938	150010	01.0663	150065	01.1446	150127	01.0940
140168	01.0630	140232	01.0079	150011	01.1654	150066	01.0864	150128	01.1135
140170	01.0307	140233	01.4415	150012	01.2977	150067	01.0344	150129	01.1024
140171	00.9845	140234	01.1539	150013	01.0135	150069	01.1239	150130	01.1812
140172	01.3254	140235	00.9517	150014	01.1518	150070	01.0993	150132	01.3064
140173	00.9660	140236	00.9650	150015	01.1475	150071	01.1270	150133	01.1468
140174	01.2294	140239	01.3529	150017	01.4712	150072	01.2172	150134	01.1516
140176	01.1238	140240	01.1615	150018	01.1670	150073	01.0857	150135	00.8110
140177	01.1259	140241	00.8883	150019	01.1817	150074	01.3076	150136	01.2039
140179	01.2219	140242	01.2423	150020	01.0516	150075	01.1682	160001	01.1565
140180	01.2944	140243	01.1170	150021	01.3917	150076	01.0531	160002	01.3211
140181	01.1146	140245	01.0058	150022	01.0591	150077	01.1455	160003	01.0377
140182	01.2586	140246	01.0564	150023	01.2053	150078	01.0402	160004	01.1600
140184	01.0950	140247	00.9887	150024	01.1101	150079	01.0447	160005	01.2087
140185	01.1796	140248	01.1525	150025	01.3541	150081	01.0255	160007	01.0596
140186	01.1051	140249	00.8249	150026	01.1871	150082	01.2898	160008	01.1508

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
160009	01.1209	160066	01.1013	160123	01.1075	170032	01.0481	170090	00.9516
160012	01.0828	160067	01.1415	160124	01.1279	170033	01.1505	170092	01.0148
160013	01.2754	160068	01.0789	160126	01.1079	170034	00.9630	170093	00.9731
160014	01.0674	160069	01.3083	160129	01.0228	170035	00.9645	170094	00.9995
160016	01.1999	160070	01.0193	160130	01.1510	170036	00.9719	170095	01.0845
160018	01.0098	160071	01.2020	160131	01.1259	170037	01.1223	170097	00.9955
160020	01.0615	160072	01.0749	160132	01.2093	170038	01.0232	170098	01.0851
160021	01.0788	160073	00.9492	160133	01.1266	170039	01.0526	170099	01.1280
160023	01.1411	160074	01.0059	160134	00.9408	170040	01.3293	170100	00.8350
160024	01.1731	160075	01.0451	160135	00.9349	170041	01.0132	170101	01.0549
160025	01.4796	160076	00.9951	160138	01.0790	170043	01.0738	170102	00.9800
160026	01.1095	160077	01.0205	160140	01.0288	170044	01.1129	170103	01.1831
160027	01.1414	160079	01.2222	160141	00.9496	170045	01.0593	170104	01.2632
160028	01.1657	160080	01.0937	160142	01.1554	170046	00.9722	170105	01.0330
160029	01.2558	160081	01.1173	160143	01.0116	170049	01.1668	170106	00.9978
160030	01.2274	160082	01.4432	160145	01.0873	170050	00.9622	170108	01.0732
160031	01.0876	160083	01.3910	160146	01.2767	170051	01.0006	170109	01.0621
160032	01.0516	160085	01.2213	160147	01.2948	170052	01.0084	170110	00.9268
160033	01.2394	160086	00.9905	160151	01.1044	170053	01.0209	170112	00.9422
160034	01.0305	160088	01.0035	160152	01.0576	170054	01.0775	170113	01.0729
160035	01.0631	160089	01.1501	160153	01.4167	170055	01.0277	170114	01.1085
160036	01.1388	160090	01.0600	170001	01.1406	170056	00.9851	170115	01.0564
160037	01.0950	160091	01.2676	170002	01.1801	170057	01.0006	170116	01.1416
160038	01.1895	160092	01.0198	170003	01.0867	170058	01.0021	170117	01.0238
160039	01.0058	160093	00.9837	170004	01.0663	170060	01.0058	170119	00.9034
160040	01.2259	160094	01.1354	170005	00.9649	170061	01.1058	170120	01.1528
160041	01.1060	160095	01.0869	170006	01.1783	170062	00.9435	170121	00.8150
160043	01.0743	160097	01.1300	170007	01.1339	170063	00.9656	170122	01.6000
160044	01.2255	160098	01.1065	170008	00.9730	170064	01.0416	170123	01.3579
160045	01.3875	160099	01.0452	170009	01.1409	170066	00.9217	170124	01.0063
160046	01.0233	160101	01.1127	170010	01.0965	170067	00.9638	170125	00.9236
160047	01.2273	160102	01.2826	170011	01.1525	170068	01.1598	170126	00.9427
160048	01.0668	160103	00.9349	170012	01.3564	170069	01.0028	170128	01.0349
160049	00.9884	160104	01.0757	170013	01.2731	170070	00.9527	170130	01.4044
160050	01.0901	160106	01.2131	170014	01.0875	170072	00.9393	170131	01.1433
160051	01.1147	160107	01.0841	170015	01.0448	170073	01.1070	170133	01.2337
160052	01.1167	160108	01.1577	170016	01.4512	170074	01.1058	170134	01.0345
160053	01.1431	160109	01.1055	170017	01.1050	170075	00.8905	170137	01.1444
160054	01.0509	160110	01.3435	170018	01.0592	170076	01.0726	170138	01.1515
160055	01.0540	160111	01.1176	170019	01.1950	170077	00.9359	170139	01.0401
160056	00.9992	160112	01.2400	170020	01.1915	170079	00.9180	170140	01.0225
160057	01.1548	160113	01.0318	170021	00.9958	170080	00.9890	170142	01.1829
160058	01.4826	160114	01.0063	170022	01.1688	170081	01.0131	170143	01.1370
160059	01.2093	160115	01.0872	170023	01.2985	170082	00.9023	170144	01.3151
160060	01.0608	160116	01.1180	170024	00.9830	170084	00.9715	170145	01.1002
160061	01.0431	160117	01.2614	170025	01.1994	170085	00.9982	170146	01.2464
160062	01.0325	160118	01.1045	170026	01.0422	170086	01.4121	170147	01.1901
160063	01.2111	160119	00.8887	170027	01.1619	170087	01.2718	170148	01.1953
160064	01.2093	160120	01.0342	170030	00.9741	170088	01.0120	170150	01.0738
160065	01.0832	160122	01.0819	170031	01.0054	170089	00.9475	170151	01.0031

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 9 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
170152	00.9284	180041	01.0066	180117	00.9721	190041	01.3180	190124	01.2187
170159	00.9381	180042	01.0137	180118	00.9845	190043	01.0288	190125	01.1869
170160	00.9094	180043	01.0042	180120	00.9289	190044	01.0058	190127	01.0949
170164	01.2252	180044	01.0072	180121	00.9645	190045	01.1636	190128	01.0296
170166	01.0246	180045	01.1355	180122	00.9758	190046	01.2855	190130	00.9358
170168	01.0641	180046	00.9852	180123	01.1448	190047	01.0922	190131	01.0627
170170	01.1285	180047	00.9964	180124	01.2309	190048	01.0546	190132	01.1220
170171	01.0769	180048	01.1094	180125	00.9397	190049	01.0194	190133	01.0657
170172	00.9648	180049	01.1069	180126	01.0880	190050	00.9837	190134	00.8520
170173	00.9657	180050	01.1347	180127	01.1084	190053	01.1491	190135	01.3479
170174	00.9131	180051	01.2145	180128	01.0401	190054	01.2530	190136	00.9738
170175	01.1182	180053	00.9511	180129	00.9302	190058	00.9878	190137	00.9514
170176	01.2470	180054	01.0759	180130	01.1935	190059	01.0209	190138	00.7576
170178	01.0354	180055	01.0200	180132	01.1015	190060	01.1941	190139	01.0651
180001	01.1290	180056	01.1097	180133	01.0962	190064	01.2914	190140	00.9834
180002	01.0043	180058	00.8651	180134	01.1777	190065	01.3686	190141	01.0089
180004	01.1024	180059	00.9295	180136	01.1909	190067	01.0281	190142	00.9617
180005	01.0026	180060	00.9110	180137	01.2567	190071	00.9861	190144	01.1026
180006	00.8942	180062	00.9087	180138	01.1304	190073	00.8567	190145	00.9393
180007	01.2207	180063	00.9409	190001	00.9644	190075	01.1851	190146	01.3385
180009	01.0948	180064	01.0496	190002	01.3797	190077	01.0134	190147	00.8971
180010	01.4897	180065	00.9747	190003	01.1778	190078	01.0591	190148	00.8759
180011	00.9975	180066	01.0092	190004	01.1603	190079	01.0713	190149	01.0662
180012	01.1358	180067	01.3928	190005	01.1457	190081	00.9425	190151	01.1309
180013	01.1801	180069	00.9783	190006	01.0971	190083	00.9203	190152	01.1354
180014	01.4139	180070	00.9757	190007	01.0047	190086	01.1039	190155	00.9694
180015	01.0611	180072	01.1135	190008	01.3520	190088	01.0297	190156	00.9214
180016	01.1715	180075	00.9454	190009	01.1031	190089	01.1206	190157	00.9244
180017	01.1842	180078	00.9382	190010	01.0428	190090	01.0476	190158	01.0848
180018	01.1465	180079	00.9607	190011	01.0586	190092	01.1724	190160	01.0274
180019	01.0993	180080	01.0922	190012	01.0672	190095	00.9335	190161	01.0920
180020	00.9698	180081	01.1952	190013	01.1280	190098	01.2284	190162	01.1621
180021	00.9510	180085	01.2185	190014	00.9819	190099	01.0291	190163	00.9662
180023	00.8506	180087	01.0625	190015	01.1640	190101	00.9892	190164	01.0701
180024	00.9801	180088	01.3562	190017	01.1160	190102	01.2589	190165	01.0026
180025	01.1047	180092	01.0597	190018	01.2153	190103	00.8708	190166	00.9470
180026	01.0297	180093	01.2207	190019	01.2475	190106	00.9738	190167	01.1345
180027	01.0480	180094	00.9645	190020	01.0573	190109	01.0380	190169	00.9747
180028	00.9292	180095	01.0737	190023	00.9192	190110	00.9845	190170	00.9833
180029	01.0929	180099	00.9619	190025	01.1231	190111	01.3328	190173	01.2252
180030	01.0068	180100	01.1407	190026	01.2448	190112	01.2010	190175	01.1529
180031	01.0238	180101	01.1091	190027	01.2344	190113	01.1358	190176	01.3735
180032	00.8971	180102	01.1968	190029	01.0805	190114	01.0052	190177	01.0983
180033	01.0894	180103	01.4164	190033	00.9265	190115	01.2166	190178	00.9611
180034	00.9996	180104	01.2548	190034	01.1441	190116	01.1008	190179	01.0337
180035	01.2316	180105	00.8462	190035	01.2552	190117	01.0306	190180	01.0746
180036	01.0313	180106	00.8392	190036	01.4180	190118	00.9969	190182	01.0375
180037	01.1363	180108	00.8733	190037	01.0116	190119	01.0260	190183	01.0369
180038	01.1198	180115	00.9879	190039	01.3326	190120	00.9147	190184	00.9055
180040	01.5731	180116	01.1905	190040	01.2995	190122	01.1208	190185	01.1619

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
190186	00.9387	200039	01.2486	210039	01.1350	220041	01.1184	220104	01.1033
190187	01.0461	200040	01.0740	210040	01.2520	220042	01.1033	220105	01.1129
190188	00.9904	200041	01.1110	210043	01.1406	220045	01.1766	220106	01.1204
190189	01.1143	200043	00.8360	210044	01.1854	220046	01.2807	220107	01.0517
190190	01.0999	200044	01.1456	210045	01.0204	220048	01.1238	220108	01.0772
190191	01.1657	200047	01.1551	210046	01.0343	220049	01.1572	220110	01.7750
190193	01.1847	200049	00.9181	210047	01.0890	220050	01.0407	220111	01.1327
190194	01.0701	200050	01.1100	210048	01.1252	220051	01.2126	220114	01.0655
190195	01.0487	200051	01.0427	210049	01.2030	220052	01.1849	220115	01.2159
190196	00.9629	200052	01.0587	210050	00.9375	220053	01.1578	220116	01.5929
190197	01.1987	200055	01.0470	210051	01.1889	220055	01.1636	220117	01.0399
190198	01.0756	200062	01.0571	210052	00.3486	220057	01.1631	220118	01.7243
190199	01.3790	200063	01.2286	210054	01.1137	220058	01.0540	220119	01.2169
190200	01.1667	200066	01.1395	210055	01.1471	220060	01.1211	220120	01.0542
190201	01.1472	210001	01.2475	210056	01.2794	220061	01.2084	220121	01.0503
190202	01.1618	210002	01.5635	210057	01.2055	220062	00.8926	220123	01.0090
190203	01.3324	210003	01.1878	210058	01.8158	220063	01.1060	220124	02.9401
190204	01.1568	210004	01.1983	210059	01.1254	220064	01.1823	220126	01.1762
190205	01.2096	210005	01.2147	220001	01.1858	220065	01.1242	220128	01.1376
190206	01.2759	210006	01.0608	220002	01.3055	220066	01.2308	220129	01.1550
190207	01.1051	210007	01.3959	220003	01.0051	220067	01.1972	220131	01.0470
200001	01.2213	210008	01.1763	220004	01.1527	220068	00.6849	220133	00.8582
200002	01.0385	210009	01.3532	220005	01.1322	220070	01.1405	220135	01.1133
200003	01.0131	210010	01.1233	220006	01.1935	220071	01.6082	220153	01.0205
200005	00.8876	210011	01.1922	220008	01.1812	220072	01.1060	220154	01.0116
200006	01.1341	210012	01.2113	220009	01.1176	220073	01.1626	220156	01.1392
200007	01.0173	210013	01.1985	220010	01.1393	220074	01.0877	220162	01.0562
200008	01.2157	210015	01.1891	220011	01.2148	220075	00.7511	220163	01.7888
200009	01.5575	210016	01.4138	220012	01.2154	220076	01.1615	220171	01.3604
200012	01.0577	210017	01.0531	220015	01.1743	220077	01.4476	230001	01.1729
200013	01.1758	210018	01.2228	220016	01.1561	220079	01.1127	230002	01.1547
200015	01.2217	210019	01.3103	220017	01.1963	220080	01.1257	230003	01.1384
200016	01.0287	210021	01.1620	220019	01.1155	220081	01.0302	230004	01.4987
200017	01.1830	210022	01.2204	220020	01.1407	220082	01.1530	230005	01.1304
200018	01.1216	210023	01.1828	220021	01.1447	220083	01.1614	230006	01.0348
200019	01.2315	210024	01.1935	220022	01.0590	220084	01.1935	230007	01.0496
200020	01.1041	210025	01.1182	220023	01.1633	220086	01.4787	230011	01.0300
200021	01.1283	210026	01.1585	220024	01.1535	220087	00.9199	230012	01.1153
200023	00.9752	210027	01.1635	220025	01.1152	220088	01.3944	230013	01.1998
200024	01.1540	210028	01.0762	220026	01.2170	220089	01.2006	230014	01.0773
200025	01.1947	210029	01.2869	220028	01.2160	220090	01.1123	230015	01.1073
200026	01.0062	210030	01.0156	220029	01.1214	220092	01.1704	230017	01.3446
200027	01.0623	210031	01.5133	220030	01.1000	220094	01.1386	230019	01.2143
200028	01.0533	210032	01.0607	220031	01.5085	220095	01.1105	230020	01.2137
200031	01.1536	210033	01.1211	220033	01.1778	220097	01.0987	230021	01.2027
200032	01.2408	210034	01.1410	220034	01.0785	220098	01.1638	230022	01.2181
200033	01.3746	210035	01.1034	220035	01.0924	220099	01.0952	230023	01.0315
200034	01.1768	210036	01.1873	220036	01.3606	220100	01.2437	230024	01.3632
200037	01.1148	210037	01.1796	220038	01.1262	220101	01.2039	230027	01.0767
200038	01.0232	210038	01.1793	220040	01.1204	220102	00.9663	230029	01.2262

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 11 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
230030	01.2610	230096	01.0856	230154	00.9954	230227	01.1851	240028	01.1109
230031	01.2488	230097	01.1900	230155	00.9593	230228	01.1639	240029	01.0902
230032	01.6049	230098	01.1482	230156	01.4568	230230	01.2958	240030	01.3234
230034	01.0510	230099	01.1368	230157	01.1727	230231	00.9593	240031	01.0206
230035	01.1490	230100	01.1194	230158	00.9970	230232	01.0293	240033	00.9579
230036	01.2153	230101	01.0890	230159	01.1848	230235	00.9749	240036	01.2565
230037	01.0475	230102	01.1872	230161	00.8416	230236	01.2309	240037	01.1102
230038	01.5306	230103	01.0676	230162	00.9603	230237	01.1512	240038	01.3789
230039	01.2406	230104	01.3555	230163	00.9643	230239	01.0727	240040	01.1230
230040	01.1918	230105	01.3801	230165	01.4828	230241	01.0720	240041	01.1635
230041	01.1115	230106	01.0928	230167	01.1835	230244	01.1732	240043	01.1903
230042	01.1165	230107	00.9926	230169	01.1622	230253	01.0789	240044	01.1105
230043	00.8334	230108	01.1774	230171	01.1052	230254	01.1763	240045	01.0863
230046	01.5146	230110	01.1485	230172	01.1806	230256	01.0685	240046	01.2921
230047	01.1142	230111	00.9795	230173	01.1182	230257	01.0519	240047	01.2692
230051	00.9464	230113	00.9356	230174	01.1450	230259	01.0893	240048	01.2326
230053	01.3423	230114	00.9354	230175	00.9116	230264	01.1450	240049	01.5377
230054	01.3312	230115	01.0150	230176	01.1024	230265	01.0587	240050	01.1497
230055	01.0534	230116	00.9299	230178	01.0977	230266	01.1235	240051	00.9556
230056	00.9668	230117	01.6573	230179	00.9408	230269	01.1445	240052	01.1942
230057	00.9485	230118	01.2034	230180	01.0866	230270	01.1112	240053	01.3686
230058	01.0631	230119	01.0136	230181	01.1405	230273	01.2121	240055	01.1597
230059	01.3664	230120	01.0600	230184	01.1218	230275	01.0753	240056	01.3114
230060	01.1262	230121	01.1500	230186	01.0845	230276	00.9391	240057	01.5898
230062	00.9947	230122	01.2086	230188	01.0395	230277	01.1455	240058	00.9943
230063	01.1658	230123	00.9406	230189	00.9571	240001	01.3490	240059	01.0525
230065	01.1976	230124	01.0471	230190	01.1331	240002	01.5004	240061	01.4131
230066	01.1678	230125	01.2979	230191	00.9019	240003	01.1038	240062	01.1527
230067	00.9005	230127	01.1359	230193	01.1571	240004	01.3128	240063	01.3052
230068	01.2291	230128	01.2827	230194	01.1094	240005	00.9929	240064	01.1766
230069	01.0830	230129	01.6445	230195	01.2527	240006	01.1511	240065	00.9614
230070	01.2479	230130	01.3203	230197	01.0927	240007	01.0883	240066	01.2378
230071	00.6994	230132	01.2027	230199	01.0814	240008	01.0465	240069	01.0999
230072	01.1292	230133	01.1015	230201	01.0132	240009	01.1241	240071	01.1118
230075	01.2043	230134	01.0877	230203	00.7816	240010	01.8460	240072	01.0358
230076	01.1933	230135	01.1558	230204	01.2340	240011	01.0449	240073	01.0075
230077	01.6079	230137	01.0565	230205	01.1598	240013	01.2629	240074	01.0333
230078	01.0581	230138	00.8999	230207	01.1063	240014	01.0933	240075	01.1613
230080	01.1667	230140	01.0329	230208	01.3352	240016	01.2893	240076	01.1347
230081	01.0484	230141	01.3502	230211	00.9425	240017	01.1721	240077	01.0031
230082	01.1464	230142	01.1296	230212	01.0905	240018	01.1713	240078	01.3210
230084	01.0666	230143	01.2385	230213	01.0096	240019	01.3716	240079	01.0948
230085	01.1268	230144	01.1272	230216	01.2442	240020	01.1439	240080	01.2209
230086	01.0211	230145	01.1432	230217	01.1048	240021	01.0288	240081	01.2767
230087	01.0870	230146	01.1323	230219	00.9272	240022	01.1243	240082	01.2814
230089	01.2006	230147	01.1813	230221	01.2109	240023	01.0677	240083	01.1410
230090	01.3636	230149	01.1021	230222	01.1527	240024	01.1374	240084	01.2731
230092	01.1955	230150	01.4906	230223	01.2018	240025	01.1409	240085	00.9065
230093	01.1529	230151	01.2878	230224	01.0401	240026	01.3057	240086	01.0960
230095	01.0820	230153	01.1279	230225	01.1561	240027	01.0565	240087	01.1720

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
240088	01.3707	240143	00.9822	250009	01.0930	250071	01.0134	250132	00.9798
240089	01.0033	240144	01.0097	250010	01.0138	250072	01.1253	250133	00.8667
240090	01.0199	240145	00.9331	250012	00.9250	250073	00.9200	250134	01.0707
240091	00.9985	240146	01.0082	250014	00.9997	250075	00.9494	250135	00.9751
240093	01.2901	240148	00.9480	250015	01.0193	250076	00.8994	250137	00.8677
240094	01.0662	240150	00.9881	250016	00.8548	250077	00.9016	250138	00.9969
240096	01.0606	240152	01.0457	250017	00.8858	250078	01.2163	250139	00.9235
240097	01.0816	240153	01.0390	250018	01.0242	250079	00.8518	250140	00.8795
240098	00.9873	240154	00.9730	250019	01.1506	250081	01.1237	260001	01.4001
240099	01.1171	240155	00.9894	250020	00.9709	250082	01.0907	260002	01.1778
240100	01.1928	240156	00.9645	250021	00.9079	250083	00.8708	260003	00.9908
240101	01.0496	240157	01.0475	250023	00.9025	250084	01.1056	260004	01.0612
240102	00.9524	240158	01.1581	250024	00.9344	250085	00.9812	260005	01.1767
240103	01.0357	240160	01.0256	250025	00.9828	250086	01.0120	260006	01.1933
240104	01.2029	240161	01.0371	250026	00.9045	250088	01.0450	260007	01.1575
240105	00.9697	240162	01.1017	250027	00.9439	250089	00.9903	260008	01.1616
240106	01.2363	240163	01.0644	250029	00.8872	250091	00.9320	260009	01.1499
240107	01.0390	240165	00.9958	250030	00.9030	250093	01.1221	260010	01.1708
240108	00.9930	240166	01.1377	250031	01.0600	250094	01.1067	260011	01.2364
240109	01.0435	240167	00.9545	250032	01.1540	250095	01.0267	260012	00.9316
240110	01.1259	240169	00.9323	250033	00.8710	250096	01.1024	260013	01.0718
240111	01.0712	240170	01.0973	250034	01.3179	250097	01.0798	260014	01.3897
240112	01.0434	240171	01.0534	250035	00.9091	250098	00.8930	260015	01.0330
240114	00.9996	240172	01.0337	250036	00.9672	250099	01.0812	260016	01.1790
240115	01.2044	240173	01.0129	250037	00.9489	250100	01.1595	260017	01.2295
240116	00.9908	240175	00.9487	250038	00.9222	250101	00.8927	260018	01.0131
240117	01.1273	240176	01.0254	250039	00.9309	250102	01.3505	260019	00.9991
240118	00.9593	240177	00.9937	250040	01.0666	250104	01.1661	260020	01.3684
240119	00.9009	240179	01.0237	250042	01.0446	250105	00.8794	260021	01.2492
240121	00.9531	240180	01.0503	250043	00.8622	250107	00.9280	260022	01.2949
240122	01.0857	240183	01.0931	250044	00.9869	250109	00.8942	260023	01.2226
240123	01.0523	240184	01.0036	250045	01.0552	250110	00.9340	260024	01.0850
240124	01.0596	240187	01.1829	250046	00.9673	250111	00.8945	260025	01.1928
240125	01.0584	240192	00.9669	250047	00.8857	250112	00.9338	260026	01.0904
240127	01.0686	240193	01.0081	250048	01.2856	250113	00.9408	260027	01.3123
240128	01.1126	240196	01.3590	250049	00.9183	250114	00.8485	260029	01.1369
240129	01.0437	240200	00.9014	250050	01.1585	250117	00.9549	260030	01.1546
240130	01.0106	240201	00.9502	250051	00.8609	250118	01.0503	260031	01.3667
240131	01.2738	240205	00.8611	250057	01.0359	250119	00.9297	260032	01.4307
240132	01.2316	240206	00.8365	250058	01.0792	250120	01.0588	260033	01.1919
240133	01.1134	240207	01.1676	250059	01.0038	250121	00.9065	260034	01.0437
240134	01.0582	240210	01.2605	250060	00.8291	250122	01.0639	260035	00.9596
240135	00.5975	250001	01.3946	250061	00.9950	250123	01.1235	260036	01.0591
240136	01.0521	250002	00.8657	250062	01.0379	250124	00.8988	260037	01.1869
240137	01.0558	250003	00.8814	250063	00.9088	250125	01.0481	260039	01.1197
240138	01.0048	250004	01.2618	250065	01.0178	250126	00.9955	260040	01.3322
240139	01.0746	250005	01.0034	250066	00.9054	250127	00.8290	260041	01.0333
240140	00.9224	250006	00.9548	250067	01.0838	250128	01.0204	260042	01.1037
240141	01.0036	250007	01.0333	250068	00.8632	250129	01.0289	260044	01.0521
240142	01.1483	250008	00.8649	250069	01.1066	250131	01.0006	260047	01.2000

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: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 13 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
260048	01.1297	260110	01.3961	260193	01.1793	270058	01.1036	280042	01.1205
260049	00.9477	260111	01.0455	260195	01.0437	270059	00.9870	280043	01.0718
260050	01.0233	260112	01.2621	260197	01.1148	270060	00.8509	280045	01.1918
260051	01.1016	260113	01.1232	260198	01.1382	270063	00.9178	280046	01.1407
260052	01.1465	260115	01.1293	260200	01.0882	270067	00.9500	280047	01.1292
260053	01.0997	260116	01.1447	270001	00.9282	270068	00.9094	280048	01.0327
260054	01.1901	260118	01.2169	270002	01.0456	270071	00.9751	280049	01.0862
260055	01.0623	260119	01.2264	270003	01.1147	270072	00.8829	280050	01.0022
260056	01.1919	260120	01.1277	270004	01.6238	270073	01.0732	280051	01.0467
260057	01.0526	260121	01.0811	270006	00.8800	270074	00.9076	280052	01.0880
260058	01.1305	260122	01.0567	270007	00.9711	270075	00.8972	280054	01.1547
260059	00.9935	260123	00.9963	270008	00.9290	270076	00.8774	280055	01.0141
260061	01.0792	260127	01.0521	270009	00.9555	270079	00.9584	280056	01.1036
260062	01.1438	260128	01.0624	270011	01.0952	270080	01.1402	280057	01.0642
260063	01.1170	260129	01.1567	270012	01.2668	270081	00.9912	280058	01.1433
260064	01.2287	260131	01.2373	270013	01.1554	270082	00.9202	280060	01.2683
260065	01.3699	260134	01.1162	270014	01.4334	270083	01.0471	280061	01.2748
260066	01.0623	260137	01.1860	270016	00.8840	280001	01.1123	280062	01.1359
260067	01.0324	260138	01.5591	270017	01.2294	280003	01.6198	280064	01.0635
260068	01.7044	260141	01.6677	270018	01.1065	280004	01.1134	280065	01.2170
260070	01.0296	260142	01.2381	270019	00.9277	280005	01.2811	280066	01.1378
260073	01.0085	260143	01.3944	270021	01.1108	280009	01.3131	280068	00.9127
260074	01.1207	260146	00.8986	270023	01.2543	280010	01.3333	280070	01.0602
260077	01.2104	260147	00.9912	270024	01.0024	280011	01.0347	280071	00.9604
260078	01.0632	260148	00.9367	270026	00.8994	280012	01.2244	280073	01.0465
260079	01.0591	260158	01.1941	270027	01.1136	280013	01.4047	280074	01.1110
260080	01.2104	260159	01.0062	270028	01.0224	280014	01.1163	280075	01.1409
260081	01.3619	260160	01.1691	270029	00.9544	280015	01.0436	280076	01.1041
260082	01.1535	260162	01.2301	270030	00.9183	280017	01.1545	280077	01.2710
260083	01.1128	260163	01.1145	270031	00.8413	280018	01.0213	280078	01.0679
260085	01.2454	260164	01.0549	270032	01.0858	280020	01.3532	280079	00.8887
260086	00.9932	260165	00.9467	270033	00.9107	280021	01.3291	280080	01.0152
260088	01.1773	260166	01.1626	270035	01.0155	280022	01.1446	280081	01.3293
260089	01.0619	260171	00.7438	270036	01.0234	280023	01.2543	280082	00.9615
260090	01.2231	260172	01.0533	270039	01.0407	280024	00.9042	280083	01.0346
260091	01.3894	260173	01.1435	270040	01.0732	280025	01.0506	280084	01.0178
260092	00.9981	260175	01.1495	270041	00.9868	280026	00.9917	280085	01.2759
260093	01.1271	260176	01.2200	270042	00.9108	280028	00.9659	280087	01.2556
260094	01.1371	260177	01.2435	270043	00.8630	280029	01.1950	280088	01.4823
260095	01.1782	260178	01.2540	270044	01.0186	280030	01.5113	280089	01.0012
260096	01.2751	260179	01.3406	270046	00.8735	280031	01.0385	280090	00.9648
260097	01.1567	260180	01.3383	270047	00.8926	280032	01.2057	280091	01.0839
260100	01.1088	260182	01.0783	270048	01.1306	280033	01.0205	280092	00.9275
260102	01.0602	260183	01.2250	270049	01.2575	280034	01.2700	280093	00.9094
260103	01.1785	260186	01.0934	270050	01.0178	280035	00.9669	280094	00.9846
260104	01.3634	260188	01.1746	270051	01.1115	280037	01.0947	280097	01.0012
260105	01.6346	260189	01.0240	270052	00.9133	280038	01.1874	280098	00.9711
260107	01.2390	260190	01.1382	270053	00.8135	280039	01.0185	280101	01.0660
260108	01.5003	260191	01.1609	270055	00.8117	280040	01.4528	280102	01.0615
260109	01.0026	260192	00.8116	270057	01.1739	280041	01.0609	280103	01.0166

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
280104	01.0071	300010	01.0940	310036	01.1458	310096	01.3666	320062	00.8725
280105	01.2071	300011	01.1586	310037	01.2108	310105	01.0902	320063	01.1507
280106	01.1532	300012	01.1939	310038	01.4110	310108	01.1715	320065	01.1001
280107	01.0997	300013	01.0633	310039	01.1748	310110	01.1595	320067	00.9390
280108	01.0520	300014	01.2154	310040	01.0992	310111	01.1649	320068	01.0269
280109	00.9394	300015	01.0638	310041	01.2042	310112	01.1436	320069	01.1452
280110	01.0805	300016	01.1692	310042	01.0952	310113	01.1894	320070	00.9113
280111	01.1805	300017	01.1959	310043	01.1485	310115	01.1857	320074	01.1602
280114	01.0127	300018	01.2126	310044	01.1867	310116	01.1956	320076	01.0516
280115	01.0495	300019	01.1593	310045	01.1608	310118	01.1197	320077	00.8598
280116	00.8748	300020	01.1048	310047	01.2671	310119	01.1798	330001	01.1522
280117	01.2168	300021	01.0933	310048	01.1928	310120	01.0895	330002	01.2163
280118	01.1778	300022	01.1216	310049	01.1559	310121	00.9435	330003	01.2265
280119	00.7819	300023	01.1644	310050	01.1291	310515	01.0324	330004	01.1686
280122	00.9001	300024	01.1535	310051	01.2395	320001	01.3146	330005	01.4396
280123	00.6741	300028	01.1170	310052	01.1791	320002	01.1834	330006	01.2331
290001	01.3677	300029	01.1956	310054	01.2716	320003	01.1571	330007	01.1835
290002	00.9580	300032	00.9429	310056	01.1296	320004	01.1140	330008	01.1029
290003	01.3341	300033	01.0042	310057	01.2376	320005	01.1927	330009	01.0417
290005	01.1750	300034	01.3581	310058	01.0401	320006	01.1692	330010	01.1192
290006	01.0242	310001	01.4225	310059	00.8493	320009	01.2269	330011	01.1421
290007	01.4026	310002	01.6632	310060	01.1823	320010	01.2286	330012	01.3171
290008	01.1309	310003	01.1306	310061	01.1270	320011	01.0439	330013	01.7433
290009	01.2844	310005	01.1707	310062	00.9895	320012	00.9939	330014	01.1601
290010	01.1186	310006	01.1442	310063	01.2280	320013	01.0193	330015	01.2301
290011	01.0229	310008	01.2300	310064	01.1976	320014	00.9235	330016	01.0164
290012	01.2418	310009	01.1370	310067	01.1314	320016	01.0329	330019	01.0675
290013	00.9769	310010	01.1996	310068	01.1568	320017	01.2156	330020	01.0034
290014	01.0124	310011	01.1795	310069	01.1095	320018	01.2060	330022	01.0150
290015	00.9253	310012	01.2708	310070	01.2021	320019	01.2620	330023	01.1839
290016	01.0940	310013	01.2088	310071	01.1223	320021	01.5798	330024	01.4776
290018	00.8192	310014	01.3702	310072	01.1560	320022	01.2416	330025	01.0386
290019	01.1868	310015	01.2460	310073	01.1729	320023	01.1203	330027	01.1918
290020	00.9014	310016	01.1499	310074	01.2076	320030	01.0597	330028	01.1666
290021	01.4162	310017	01.2229	310075	01.1844	320031	00.9229	330029	01.2281
290022	01.4897	310018	01.1042	310076	01.2433	320032	00.9981	330030	01.0077
290027	01.0445	310019	01.4462	310077	01.5063	320033	01.0892	330033	01.2584
290029	00.8944	310020	01.1455	310078	01.1389	320035	00.9552	330034	01.1257
290031	01.0707	310021	01.1746	310081	01.1428	320037	01.1702	330036	01.0724
290032	01.1871	310022	01.1538	310083	01.1262	320038	01.1385	330037	01.1069
290033	01.0093	310024	01.1911	310084	01.1775	320046	01.0636	330038	01.0632
290034	00.7590	310025	01.0893	310085	01.1846	320048	01.1397	330039	01.0305
300001	01.2355	310026	01.1466	310086	01.1633	320049	01.0600	330041	01.2022
300002	01.0781	310027	01.1498	310087	01.1521	320053	01.0371	330043	01.1324
300003	01.4957	310028	01.0796	310088	01.1402	320056	00.9115	330044	01.1989
300005	01.2284	310029	01.5850	310090	01.2034	320057	01.1513	330045	01.1754
300006	01.0526	310031	02.1510	310091	01.1725	320058	00.9359	330046	01.2389
300007	01.0462	310032	01.1313	310092	01.1718	320059	01.0370	330047	01.1385
300008	01.1297	310033	01.1231	310093	01.0905	320060	00.9707	330048	01.1745
300009	01.1960	310034	01.1614	310094	01.0548	320061	01.0947	330049	01.2271

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 15 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
330050	01.1032	330121	01.0285	330194	01.3770	330257	01.0182	330363	00.8109
330052	01.1392	330122	01.1021	330195	01.4380	330258	01.1381	330366	00.7275
330053	01.0487	330125	01.4973	330196	01.1782	330259	01.1769	330367	00.7212
330055	01.2330	330126	01.0908	330197	01.0608	330261	01.1916	330368	00.7232
330056	01.2075	330127	01.1389	330198	01.2066	330263	00.9808	330369	00.7358
330057	01.2845	330128	01.1622	330199	01.1109	330264	01.0973	330371	00.7911
330058	01.1730	330132	01.0763	330201	01.2548	330265	01.1985	330372	01.1399
330059	01.3401	330133	01.1579	330202	01.1322	330267	01.1581	330373	00.7240
330061	01.1808	330135	01.1113	330203	01.2463	330268	01.1557	330381	01.0785
330062	00.9850	330136	01.2299	330204	01.1560	330270	01.7862	330383	01.1430
330064	01.1931	330140	01.4460	330205	01.0631	330272	01.0108	330385	01.1115
330065	01.1613	330141	01.1645	330208	01.1335	330273	01.1137	330386	01.1238
330066	01.1289	330142	01.1655	330209	01.1621	330275	01.1756	330387	00.9049
330067	01.2184	330144	01.0084	330210	01.0913	330276	01.1403	330389	01.7272
330072	01.2249	330148	01.0243	330211	01.1116	330277	01.0564	330390	01.0983
330073	01.0984	330151	01.0655	330212	01.0857	330279	01.1529	330391	01.5258
330074	01.1347	330152	01.1983	330213	01.0049	330281	00.8109	330393	01.4441
330075	01.0321	330153	01.2369	330214	01.5541	330285	01.4162	330394	01.1790
330076	01.1118	330154	01.3352	330215	01.1363	330286	01.1549	330395	01.1948
330078	01.2327	330155	01.1772	330217	01.0372	330288	01.0350	330396	01.0266
330079	01.1787	330157	01.1843	330218	01.1410	330290	01.4138	330397	01.2295
330080	01.0930	330158	01.1879	330219	01.2589	330291	01.0511	330398	01.1079
330082	01.1562	330159	01.2626	330221	01.1493	330293	01.0810	330399	01.1635
330084	00.9747	330160	01.1696	330222	01.1325	330297	01.0801	340001	01.2081
330085	01.3241	330161	01.0615	330223	01.0179	330304	01.1724	340002	01.5445
330086	01.1291	330162	01.2313	330224	01.1490	330306	01.2081	340003	01.1660
330088	01.1728	330163	01.0957	330225	01.1560	330307	01.0862	340004	01.3090
330090	01.4958	330164	01.3123	330226	01.1933	330308	01.0966	340005	01.1519
330091	01.1623	330165	01.0824	330229	01.1378	330309	01.1165	340006	01.0525
330092	01.0163	330166	01.0339	330230	01.2366	330314	01.1410	340007	01.1687
330094	01.2056	330167	01.3754	330231	01.0983	330315	01.0945	340008	01.0679
330095	01.1433	330168	01.0567	330232	01.1700	330316	01.2120	340009	00.9032
330096	01.0117	330169	01.1789	330233	01.1728	330320	01.0848	340010	01.2510
330097	01.0915	330171	01.2105	330234	01.7496	330327	00.9398	340011	01.0279
330100	00.6280	330174	00.9803	330235	01.1476	330331	01.0721	340012	01.1061
330101	01.4913	330175	01.0702	330236	01.2308	330332	01.0887	340013	01.1733
330102	01.1855	330176	00.9394	330238	01.0981	330333	01.1290	340014	01.3346
330103	01.1417	330177	01.0525	330239	01.1079	330335	01.0985	340015	01.2325
330104	01.1708	330179	00.9616	330240	01.0732	330336	01.1059	340016	01.1323
330106	01.4405	330180	01.1766	330241	01.6161	330338	01.1103	340017	01.1649
330107	01.1607	330181	01.1796	330242	01.1942	330339	00.8830	340018	01.8074
330108	01.2020	330182	02.0462	330244	01.0701	330340	01.0572	340019	01.1251
330110	00.9721	330183	01.2826	330245	01.2295	330345	00.7427	340020	01.1225
330111	01.1120	330184	01.1654	330246	01.1892	330350	01.5972	340021	01.2385
330114	01.0162	330185	01.1068	330247	00.6396	330351	01.0511	340022	01.1248
330115	01.1102	330186	01.0867	330249	01.1707	330353	01.1292	340023	01.1590
330116	01.0061	330188	01.1277	330250	01.1206	330354	00.9544	340024	01.1526
330118	01.3234	330189	00.7215	330252	00.8739	330357	01.2006	340025	01.1216
330119	01.2085	330191	01.1667	330254	00.9555	330359	00.9857	340026	00.9785
330120	01.5131	330193	01.2451	330256	01.1167	330362	00.7233	340027	01.1442

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: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
340028	01.2420	340098	01.4777	340162	01.1376	350056	00.9390	360047	01.0345
340030	01.6563	340099	01.1448	340164	01.1785	350058	00.9912	360048	01.3587
340031	01.1261	340100	01.1809	340166	01.2181	350060	00.9818	360049	01.1173
340032	01.2954	340101	01.1625	340167	00.7978	350061	01.0291	360050	01.0636
340034	01.3008	340104	01.0202	350001	00.8961	350063	00.9470	360051	01.3086
340035	01.0956	340105	01.2519	350002	01.4296	350064	00.9744	360052	01.3552
340036	01.0501	340106	01.1167	350003	01.0633	350065	00.9595	360053	01.1601
340037	01.2201	340107	01.2426	350004	01.5794	350066	00.9488	360054	01.1697
340038	01.2124	340109	01.2240	350005	01.1234	350067	00.8601	360055	01.1873
340039	01.1445	340111	01.2179	350006	01.1467	360001	01.1409	360056	01.1407
340040	01.5298	340112	00.9994	350007	00.9516	360002	01.1637	360057	01.0224
340041	01.1804	340113	01.7503	350008	00.9306	360003	01.2539	360058	01.1311
340042	01.1308	340114	01.2387	350009	01.1345	360006	01.4816	360059	01.2136
340044	00.9931	340115	01.2979	350010	01.1098	360007	00.9940	360061	01.0100
340045	01.0768	340116	01.4451	350011	01.5569	360008	01.0977	360062	01.3983
340047	01.5872	340119	01.1615	350012	01.0098	360009	01.1797	360063	01.0185
340049	00.6637	340120	01.1006	350013	01.0042	360010	01.0899	360064	01.3164
340050	01.1263	340121	01.0040	350014	00.9779	360011	01.2756	360065	01.2108
340051	01.2667	340122	01.0480	350015	01.4978	360012	01.2418	360066	01.1252
340052	00.9729	340123	01.1502	350016	01.1122	360013	01.0927	360067	01.1181
340053	01.4157	340124	01.0303	350017	01.1812	360014	01.1222	360068	01.2814
340054	01.0221	340125	01.3761	350018	00.9307	360015	01.8486	360069	01.0273
340055	01.2419	340126	01.2098	350019	01.3153	360016	01.2323	360070	01.2038
340060	01.0934	340127	01.1751	350020	01.2145	360017	01.3627	360071	01.2045
340061	01.4967	340129	01.1155	350021	01.0556	360018	01.2628	360072	01.1414
340063	01.1065	340130	01.1984	350023	00.9741	360019	01.1703	360074	01.2118
340064	01.0566	340131	01.2650	350024	00.9756	360020	01.1392	360075	01.2934
340065	01.1265	340132	01.2291	350025	01.0181	360021	01.1810	360076	01.1681
340067	00.9924	340133	01.1287	350027	01.0048	360022	01.0944	360077	01.2649
340068	01.1786	340135	01.0229	350029	00.8978	360024	01.0804	360078	01.1535
340069	01.6087	340136	01.0406	350030	01.1009	360025	01.1105	360079	01.4977
340070	01.2478	340137	01.0639	350031	01.0637	360026	01.1142	360080	01.1636
340071	01.0470	340138	01.1778	350032	01.1321	360027	01.3443	360081	01.1733
340072	01.0912	340141	01.2688	350033	00.9495	360028	01.1933	360082	01.2133
340073	01.2404	340142	01.1709	350034	00.9323	360029	01.0883	360083	01.0859
340075	01.1368	340143	01.2982	350035	00.8622	360030	01.0997	360084	01.3010
340076	01.0453	340144	01.1491	350036	00.9272	360031	01.1212	360085	01.5125
340079	00.9495	340145	01.1288	350038	00.9092	360032	01.1598	360086	01.1219
340080	01.0286	340146	00.9927	350039	00.9343	360034	01.0947	360087	01.1780
340084	01.0770	340147	01.1706	350041	00.9269	360035	01.3575	360088	01.0239
340085	01.2447	340148	01.2386	350042	00.9850	360036	01.1379	360089	01.0718
340087	01.0524	340151	01.0417	350043	01.1568	360037	01.5163	360090	01.1553
340088	01.1165	340153	01.9124	350044	00.8987	360038	01.2349	360091	01.2329
340089	00.9749	340154	00.8734	350047	00.9845	360039	01.1509	360092	01.1281
340090	01.1245	340155	01.3316	350048	00.9441	360040	01.1334	360093	01.0613
340091	01.4750	340156	00.8783	350049	01.0165	360041	01.1560	360094	01.0707
340093	01.0582	340157	01.2169	350050	00.8646	360042	01.0767	360095	01.1999
340094	01.2409	340158	01.0745	350051	00.8785	360044	01.1689	360096	01.0931
340096	01.1120	340159	01.1003	350053	00.9676	360045	01.3154	360098	01.2168
340097	01.0071	340160	01.0760	350055	00.8991	360046	01.0365	360099	01.0891

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: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 17 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
360100	01.1542	360156	01.1003	370002	01.0019	370064	00.9962	370146	01.0122
360101	01.3385	360159	01.1209	370004	01.0888	370065	01.1834	370148	01.2304
360102	01.1917	360161	01.1500	370005	00.9415	370069	01.0317	370149	01.2091
360103	01.2020	360162	01.1049	370006	01.1575	370071	00.9181	370153	01.0337
360104	00.9924	360163	01.4040	370007	01.1616	370072	00.9344	370154	00.9611
360106	01.1523	360164	01.0842	370008	01.1714	370076	01.1388	370156	00.9824
360107	01.1005	360165	01.0905	370011	00.9404	370077	01.1160	370157	00.9932
360108	01.0758	360166	00.9713	370012	00.9251	370078	01.3733	370158	01.0118
360109	01.0488	360167	00.8854	370013	01.3673	370079	00.9644	370159	01.1076
360112	01.3618	360168	00.9529	370014	01.1142	370080	01.0343	370161	01.0528
360113	01.1690	360169	00.9850	370015	01.1089	370082	00.9284	370163	00.9700
360114	01.0101	360170	01.0922	370016	01.2345	370083	01.0548	370165	01.0456
360115	01.1505	360171	01.0991	370017	00.9527	370084	01.0064	370166	00.9700
360116	01.0361	360172	01.1832	370018	01.2146	370085	00.9281	370168	00.8947
360118	01.2259	360174	01.0660	370019	01.0336	370086	01.0670	370169	01.0414
360119	01.0713	360175	01.1161	370020	01.1477	370089	01.2145	370170	01.0475
360120	00.8304	360176	01.1387	370021	00.9680	370090	00.9095	370171	01.0325
360121	01.0768	360177	01.0281	370022	01.1992	370091	01.3913	370172	00.9335
360122	01.1580	360178	01.1268	370023	01.1360	370092	00.9687	370173	01.1078
360123	01.1233	360179	01.1545	370025	01.2243	370093	01.4533	370174	00.8251
360124	01.1835	360180	01.8771	370026	01.2843	370094	01.1688	370176	01.1164
360125	01.0833	360184	01.0556	370028	01.4653	370095	01.0195	370177	00.9395
360126	01.1709	360185	01.1175	370029	01.1454	370096	01.1822	370178	00.9905
360127	00.9896	360186	00.9499	370030	01.1012	370097	01.2186	370179	00.9745
360128	01.1033	360187	01.1726	370032	01.1914	370099	00.9749	370180	01.1544
360129	00.9980	360188	01.1194	370033	01.0540	370100	00.9758	370182	00.8845
360130	01.0829	360189	01.1603	370034	01.1213	370103	01.0615	370183	01.0196
360131	01.1121	360192	01.2227	370035	01.3977	370105	01.8340	370184	01.2952
360132	01.0833	360193	01.1876	370036	00.9824	370106	01.2599	380001	01.3229
360133	01.2596	360194	01.0969	370037	01.5216	370107	00.9622	380002	01.1980
360134	01.3218	360195	01.1455	370038	01.0136	370108	01.0428	380003	01.1737
360135	01.0911	360197	01.0575	370039	01.1301	370110	00.9777	380004	01.6312
360136	00.9971	360200	01.0829	370040	01.0772	370112	00.9699	380005	01.1307
360137	01.3995	360203	01.0973	370041	01.0150	370113	01.0849	380006	01.2017
360139	01.0597	360204	01.0784	370042	00.9042	370114	01.4106	380007	01.4047
360140	01.0031	360210	01.1114	370043	00.9130	370117	01.0608	380008	01.0690
360141	01.2739	360211	01.0863	370045	01.0318	370121	01.1414	380009	01.5330
360142	01.0469	360212	01.2507	370046	01.0060	370122	00.8477	380010	01.1765
360143	01.1578	360213	01.0709	370047	01.1093	370123	01.1284	380011	01.0806
360144	01.1762	360218	01.2196	370048	00.9804	370125	00.9462	380013	01.0805
360145	01.2793	360230	01.2232	370049	01.1509	370126	01.0475	380014	01.1551
360147	01.1614	360231	01.0824	370050	00.9636	370130	01.0140	380017	01.5203
360148	01.1713	360232	01.1067	370051	01.0011	370131	00.9531	380018	01.4734
360149	01.0500	360234	01.1468	370054	01.1045	370133	01.0030	380019	01.2539
360150	01.1447	360236	01.0952	370056	01.1970	370136	00.9450	380020	01.2586
360151	01.1827	360238	01.0575	370057	01.1592	370138	00.9541	380021	01.1864
360152	01.2820	360239	01.1457	370059	01.1237	370139	01.0071	380022	01.1770
360153	01.0819	360240	01.2339	370060	01.0763	370140	00.9581	380023	01.2090
360154	01.0880	360241	00.7709	370061	00.9500	370141	01.2807	380024	01.1956
360155	01.1168	370001	01.4936	370063	01.0302	370144	01.2318	380025	01.2599

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: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
380026	01.1497	380094	00.9955	390052	01.0613	390110	01.1573	390167	01.1266
380027	01.1350	390001	01.1362	390054	01.1391	390111	01.5966	390168	01.1464
380029	01.0349	390002	01.2007	390055	01.4787	390112	01.1036	390169	01.1156
380030	00.9929	390003	01.1110	390056	01.1458	390113	01.1510	390170	01.5809
380031	00.9332	390004	01.1835	390057	01.2054	390114	00.9870	390171	01.0698
380033	01.4595	390005	01.0229	390058	01.2382	390115	01.1612	390172	01.1106
380035	01.2369	390006	01.4436	390059	01.2665	390116	01.2050	390173	01.0696
380036	01.0608	390007	01.1357	390060	01.1130	390117	01.0759	390174	01.4735
380037	01.1475	390008	01.1476	390061	01.2186	390118	01.0349	390176	01.1411
380038	01.2014	390009	01.3086	390062	01.1328	390119	01.1671	390177	00.9027
380039	01.2048	390010	01.0838	390063	01.4343	390121	01.1837	390178	01.2882
380040	01.0954	390011	01.1719	390064	01.2034	390122	01.0777	390179	01.1621
380041	00.8054	390012	01.1946	390065	01.1768	390123	01.1840	390180	01.2075
380042	01.0573	390013	01.1411	390066	01.1731	390125	01.1204	390181	01.0714
380043	00.9588	390014	01.0377	390067	01.3663	390126	01.1497	390183	01.0430
380044	01.0032	390015	01.0591	390068	01.1688	390127	01.1116	390184	01.0853
380045	01.1234	390016	01.1038	390069	01.1440	390128	01.1229	390185	01.1454
380047	01.3714	390017	01.0617	390070	01.1314	390130	00.9909	390186	01.0247
380048	00.9250	390018	01.1412	390071	01.0965	390131	01.1874	390187	01.0859
380050	01.2052	390019	01.0602	390072	01.0101	390132	01.0317	390188	01.0923
380051	01.2543	390020	01.0912	390073	01.1607	390133	01.2573	390189	01.0631
380052	01.1618	390021	01.0945	390074	01.2031	390135	01.1617	390191	01.1089
380055	01.1870	390022	01.1423	390075	01.1553	390136	01.1483	390192	01.0367
380056	00.9856	390023	01.1399	390076	01.1621	390137	01.0858	390193	01.0917
380059	00.9821	390024	00.7777	390077	01.2017	390138	01.2183	390194	01.0762
380060	01.2609	390025	00.8025	390078	01.0163	390139	01.3663	390195	01.3818
380061	01.3957	390026	01.2331	390079	01.6289	390142	01.4217	390196	01.1607
380062	00.9793	390027	01.4134	390080	01.1600	390143	00.9042	390197	01.1891
380063	01.1224	390028	01.5028	390081	01.2000	390145	01.1097	390198	01.1394
380064	01.1643	390029	01.3895	390083	01.1100	390146	01.1511	390199	01.1945
380065	01.1706	390030	01.0639	390084	01.0112	390147	01.1271	390200	01.0687
380066	01.1510	390031	01.1208	390086	01.0792	390148	01.0826	390201	01.2154
380068	01.0847	390032	01.1656	390088	01.2563	390149	01.1895	390203	01.2328
380069	01.0294	390034	01.0686	390090	01.4813	390150	01.1347	390204	01.1565
380070	01.0041	390035	01.1634	390091	01.0851	390151	01.2175	390205	01.1409
380071	01.1965	390036	01.1721	390092	01.0905	390152	01.0583	390206	01.2046
380072	00.9161	390037	01.1776	390093	01.0972	390153	01.1669	390209	00.9600
380075	01.2146	390039	01.0715	390095	01.1903	390154	01.1114	390211	01.0643
380077	01.0148	390040	01.0516	390096	01.1704	390155	01.2559	390213	00.9898
380078	01.1092	390041	01.1141	390097	01.2590	390156	01.1807	390215	01.1012
380079	01.1645	390042	01.1829	390098	01.4780	390157	01.1024	390217	01.0709
380081	00.9397	390043	01.0437	390100	01.5189	390158	01.2358	390219	01.1603
380082	01.2122	390044	01.3892	390101	01.1849	390159	01.1602	390220	01.1457
380083	01.1480	390045	01.2084	390102	01.2149	390160	01.0999	390222	01.1720
380084	01.2454	390046	01.2989	390103	01.0256	390161	01.0057	390223	01.5756
380087	01.0294	390047	01.3417	390104	01.1109	390162	01.1818	390224	00.9094
380088	01.1451	390048	01.1140	390106	01.0117	390163	01.1348	390225	01.1423
380089	01.2699	390049	01.2661	390107	01.1627	390164	01.4339	390226	01.4021
380090	01.2523	390050	01.4627	390108	01.2018	390165	01.0545	390228	01.1780
380091	01.2415	390051	01.8492	390109	01.1472	390166	01.1328	390229	01.2362

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: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 19 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
390231	01.2356	420009	01.2035	420073	01.1731	430043	01.0622	440026	01.1636
390232	01.1157	420010	01.0253	420074	00.9962	430044	00.9192	440029	01.1525
390233	01.2166	420011	01.0756	420075	00.9980	430047	01.0685	440030	01.0528
390234	01.1879	420014	01.0698	420076	00.9724	430048	01.0735	440031	01.0016
390235	01.5222	420015	01.1141	420078	01.3552	430049	00.9136	440032	00.9729
390236	01.0864	420016	01.2168	420079	01.3122	430051	00.9412	440033	01.0223
390237	01.4190	420017	00.9319	420080	01.1811	430054	00.9254	440034	01.1912
390238	00.8481	420018	01.4119	420081	00.9692	430056	00.9066	440035	01.0877
390242	01.1390	420019	01.1153	420082	01.1921	430057	00.9624	440038	00.9540
390244	00.9005	420020	01.1334	420083	01.1615	430060	00.9494	440039	01.4203
390245	01.2221	420022	01.0162	420084	00.7577	430062	00.8793	440040	00.9046
390246	01.1280	420023	01.1621	420085	01.1796	430064	00.9740	440041	00.9028
390247	01.0485	420026	01.6453	420086	01.1790	430065	00.9308	440046	01.0474
390249	01.0884	420027	01.1258	420087	01.3307	430066	00.9644	440047	00.9441
390252	00.8436	420028	00.9927	420088	01.1415	430072	01.0629	440048	01.3066
390256	01.5484	420029	02.1404	420089	01.1975	430073	01.0541	440049	01.3290
390258	01.1492	420030	01.0606	430004	01.0570	430076	01.0501	440050	01.0420
390260	01.1767	420031	00.9289	430005	01.1765	430077	01.2437	440051	00.9946
390261	01.6014	420032	00.9654	430007	01.0002	430079	01.0194	440052	00.8783
390262	01.2848	420033	01.1858	430008	01.1732	430080	00.8632	440053	01.1657
390263	01.2995	420035	00.6451	430009	01.1126	430081	00.9423	440054	00.9523
390265	01.2020	420036	01.1473	430010	01.0724	430082	00.9136	440055	01.0303
390266	01.1771	420037	01.1776	430011	01.2367	430083	00.8590	440056	00.9250
390267	01.1240	420038	01.0240	430012	01.2750	430084	00.8370	440057	00.9430
390268	01.1257	420039	01.0867	430013	01.1203	430085	00.9369	440058	01.0521
390270	01.1271	420040	01.2131	430014	01.1865	430086	00.9089	440059	01.0932
390272	00.8601	420042	01.0622	430015	01.0703	430087	00.8594	440060	01.0803
390275	00.7808	420043	01.1355	430016	01.2584	430088	01.0068	440061	01.1340
390276	00.5520	420044	01.1060	430017	01.1490	440001	01.0316	440063	01.1354
410001	01.1522	420048	01.0064	430018	00.9360	440002	01.3382	440064	00.9283
410002	01.0774	420049	01.0517	430020	00.9863	440003	01.0938	440065	01.0495
410004	01.2056	420050	00.9240	430022	00.8745	440005	00.9941	440067	00.9925
410005	01.2662	420051	01.4068	430023	00.9757	440006	01.1737	440068	01.0654
410006	01.2063	420053	01.0520	430024	01.0028	440007	00.9786	440069	01.1134
410007	01.3687	420054	01.0714	430025	00.9922	440008	00.9864	440070	00.9213
410008	01.0746	420055	01.0291	430026	00.9720	440009	00.9852	440071	01.1484
410009	01.1888	420056	01.1553	430027	01.5128	440010	01.0128	440072	01.0935
410010	00.9905	420057	01.0918	430028	00.9783	440011	01.1428	440073	01.1592
410011	01.1320	420059	01.1120	430029	00.9386	440012	01.1737	440074	00.9008
410012	01.3409	420061	01.0522	430030	01.0711	440014	00.9533	440078	00.9193
410013	01.1128	420062	01.0678	430031	00.9454	440015	01.4750	440079	00.8441
410014	01.1210	420064	01.0495	430033	01.1009	440016	00.9947	440081	01.1035
410016	01.0189	420065	01.2018	430034	01.0430	440017	01.3046	440082	01.6274
410811	01.0760	420066	00.9598	430036	01.0507	440018	01.1377	440083	00.9037
420002	01.2074	420067	01.0997	430037	00.8996	440019	01.3729	440084	01.0680
420003	01.1192	420068	01.1677	430038	01.0743	440020	00.9928	440087	00.8867
420004	01.5904	420069	01.0062	430039	00.9543	440022	01.1135	440090	00.9974
420005	01.0607	420070	01.1613	430040	00.9647	440023	00.9223	440091	01.3166
420006	01.1374	420071	01.2020	430041	00.9544	440024	01.1012	440095	00.9604
420007	01.3842	420072	00.8734	430042	00.9628	440025	01.0771	440100	00.9306

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
440102	01.0428	440175	01.0245	450037	01.2552	450101	01.2543	450166	01.0078
440103	01.0679	440176	01.1311	450039	01.1475	450102	01.4069	450169	00.9151
440104	01.3120	440177	00.9326	450040	01.4161	450104	01.1376	450170	01.1727
440105	00.8724	440178	01.1254	450041	01.0240	450107	01.2433	450174	01.1805
440109	01.0624	440180	00.9294	450042	01.4336	450108	01.0445	450175	01.1044
440110	01.0265	440181	01.0484	450043	01.2098	450109	01.0656	450176	01.1321
440111	01.1181	440182	00.8983	450044	01.4673	450110	01.2125	450177	01.1103
440113	01.0259	440183	01.2017	450045	01.2133	450111	01.2660	450178	00.9714
440114	01.0437	440184	01.1030	450046	01.2859	450112	01.1906	450179	01.0714
440115	01.0717	440185	01.0050	450047	01.1254	450113	01.0987	450181	00.9553
440117	00.8729	440186	00.9999	450048	01.0344	450115	01.0742	450182	00.9230
440120	01.1837	440187	00.9365	450050	01.0339	450116	01.2208	450183	01.1463
440121	01.1133	440189	01.2760	450051	01.5750	450118	01.2390	450184	01.3543
440125	01.2049	440191	01.0734	450052	01.1219	450119	01.2132	450185	00.9811
440128	00.9185	440192	01.0236	450053	01.0329	450121	01.2081	450187	01.3209
440130	01.0931	440193	00.9807	450054	01.4136	450122	00.9662	450188	00.9765
440131	01.0391	440194	01.0504	450055	01.1560	450123	01.1515	450190	01.2016
440132	00.9722	440196	00.9709	450056	01.3579	450124	01.4347	450191	01.2291
440133	01.3100	440197	01.2357	450057	01.2145	450126	01.1822	450192	01.0559
440134	01.0747	440200	00.9826	450058	01.3243	450127	00.9962	450193	02.0475
440135	01.1248	440203	00.9657	450059	01.1961	450128	01.1732	450194	01.0861
440136	01.0382	440204	01.0457	450060	01.1701	450130	01.3421	450195	01.2254
440137	01.0296	440205	01.0326	450063	01.0024	450131	01.1999	450196	01.1888
440141	00.8898	450002	01.2237	450064	01.3197	450132	01.3422	450197	01.2531
440142	00.8769	450004	01.0378	450065	01.0406	450133	01.2090	450200	01.2241
440143	00.9634	450005	01.0001	450066	01.4058	450134	01.1748	450201	00.9774
440144	00.9715	450007	01.2009	450068	01.3384	450135	01.3859	450203	01.1662
440145	00.9456	450008	01.2387	450070	01.0611	450137	01.1884	450206	01.0638
440146	00.9202	450010	01.2084	450072	01.1130	450140	00.9603	450207	01.2363
440147	00.9379	450011	01.2286	450073	01.0833	450141	01.0089	450208	01.1467
440148	00.9883	450013	01.3597	450074	01.1109	450142	01.1905	450209	01.2159
440149	00.9930	450014	01.0327	450076	01.1435	450143	01.0444	450210	01.0658
440150	01.1855	450015	01.3840	450077	00.9842	450144	01.1319	450211	01.1486
440151	01.0934	450016	01.4249	450078	01.0608	450145	01.0337	450213	01.2428
440152	01.2963	450018	01.3327	450079	01.2961	450146	00.8990	450214	01.1448
440153	00.8957	450019	01.1695	450080	01.1728	450147	01.1918	450217	01.0406
440154	00.8317	450020	01.0565	450081	01.1150	450148	01.2268	450218	01.0727
440156	01.2196	450021	01.5576	450082	01.0369	450149	01.2313	450219	01.0892
440157	00.8702	450022	00.9897	450083	01.3209	450150	01.0853	450221	01.0857
440159	01.1208	450023	01.3090	450084	01.1296	450151	01.0653	450222	01.1962
440160	00.9890	450024	01.1877	450085	01.0805	450152	01.2845	450224	01.1144
440161	01.4261	450025	01.3911	450087	01.2480	450153	01.3490	450229	01.3112
440162	00.9870	450027	01.1209	450090	01.1641	450154	01.1891	450230	01.0720
440166	01.2364	450028	01.2513	450092	01.1512	450155	01.2543	450231	01.4232
440167	01.1741	450029	01.1867	450094	01.1566	450157	01.1015	450233	01.0233
440168	01.0049	450031	01.1569	450095	01.0814	450160	00.8491	450234	00.9524
440170	01.0563	450032	01.1722	450096	01.3892	450162	01.4035	450235	01.1281
440171	00.9842	450033	01.4777	450097	01.3011	450163	01.0732	450236	01.0772
440173	01.1304	450034	01.3614	450098	01.0550	450164	00.9921	450237	01.3565
440174	00.9360	450035	01.2990	450099	01.1163	450165	01.0562	450239	01.1288

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 21 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
450241	00.9840	450331	01.0063	450419	01.1989	450546	01.2125	450630	01.5618
450242	00.9718	450332	01.2546	450422	00.7865	450547	00.9590	450631	01.4935
450243	01.0542	450333	01.0158	450423	01.2599	450550	01.1301	450632	00.9251
450246	00.9821	450334	01.0227	450424	01.1159	450551	01.0567	450633	01.4004
450248	01.0726	450337	01.0895	450425	01.0010	450557	00.9955	450634	01.2097
450249	01.0326	450338	00.8798	450429	01.0105	450558	01.4900	450635	00.8396
450250	00.9642	450340	01.1848	450431	01.3358	450559	00.9965	450637	01.1856
450253	01.0519	450341	00.9347	450438	01.1771	450561	01.8231	450638	01.3543
450256	00.9625	450342	00.9980	450440	01.0252	450563	01.1005	450639	01.2202
450258	00.8445	450343	01.1120	450446	01.0105	450565	01.1402	450641	00.9297
450259	01.1524	450346	01.2040	450447	01.1874	450568	01.0465	450643	01.0922
450263	01.1675	450347	01.1335	450450	01.0735	450569	01.0840	450644	02.1877
450264	00.9309	450348	01.1270	450451	01.0735	450570	00.9968	450646	01.2012
450268	01.1104	450349	01.2158	450454	00.9771	450571	01.2699	450647	01.5963
450269	00.9862	450351	01.2082	450457	01.3964	450573	01.0920	450648	01.1216
450270	01.0157	450352	01.2002	450458	00.9112	450574	00.9237	450649	01.1000
450271	01.1645	450353	01.0568	450459	01.2219	450575	01.0806	450651	01.2910
450272	01.1527	450355	01.0390	450460	00.9627	450578	00.9846	450652	00.9651
450275	01.0251	450357	01.2209	450462	01.3717	450580	01.1321	450653	01.2388
450276	01.0592	450358	01.6430	450464	00.9583	450581	01.1279	450654	01.0230
450278	00.9931	450359	00.9321	450465	01.1400	450583	00.9974	450656	01.1902
450280	01.2807	450362	00.9707	450467	01.0748	450584	01.2381	450658	01.0580
450281	01.3042	450365	01.1316	450469	01.2471	450586	01.0267	450659	01.3270
450282	00.8378	450366	01.1884	450472	01.1407	450587	01.1473	450660	01.4719
450283	01.0243	450369	01.1519	450473	00.9915	450588	00.9250	450661	01.0468
450286	01.2313	450370	01.0560	450475	01.1418	450590	00.9408	450662	01.2045
450288	01.1558	450371	01.0839	450476	00.9950	450591	01.1120	450665	01.0279
450289	01.1045	450372	01.2632	450484	01.1424	450595	01.0635	450666	01.1542
450292	01.1482	450373	01.0783	450486	01.0778	450596	01.1274	450667	00.9445
450293	00.9512	450374	00.8343	450488	01.0345	450597	01.1133	450668	01.4281
450296	01.0384	450376	01.3326	450489	01.1859	450600	00.9929	450669	01.1859
450297	00.9949	450378	01.2329	450492	00.9768	450603	00.7705	450670	01.1259
450299	01.2140	450379	01.2549	450493	01.0193	450604	01.2424	450671	00.8384
450300	00.9574	450381	01.0697	450497	01.1200	450605	01.2204	450672	01.3756
450303	00.9696	450388	01.4302	450498	01.0140	450607	01.0211	450673	01.0193
450305	00.8652	450389	01.1368	450508	01.2313	450609	01.0079	450674	00.9044
450306	01.0532	450391	01.1757	450513	01.0624	450610	01.2593	450675	01.1953
450307	01.1562	450393	01.2691	450514	01.0946	450613	01.0514	450677	01.2445
450309	01.1723	450394	01.2030	450517	00.9607	450614	01.0344	450678	01.2151
450311	00.9555	450395	01.0653	450518	01.1595	450615	01.0114	450679	00.9978
450315	01.1874	450399	01.0330	450523	01.3097	450616	02.7296	450681	01.3259
450317	00.9668	450400	01.0801	450527	01.0789	450617	01.2461	450682	01.1409
450320	01.2362	450402	01.0448	450530	01.2325	450620	01.1179	450683	01.2974
450321	00.9819	450403	01.3042	450534	00.9866	450621	00.9638	450684	01.1828
450322	00.8796	450410	01.0519	450535	01.1883	450623	01.0248	450685	01.1379
450324	01.2861	450411	01.0426	450537	01.2305	450624	01.0998	450686	01.3180
450325	01.0789	450415	01.1943	450538	01.2702	450626	01.1718	450687	01.0792
450327	00.9648	450416	01.2282	450539	01.2189	450627	01.2792	450688	01.0830
450328	00.9167	450417	00.9106	450544	01.1548	450628	00.9752	450690	01.2555
450330	01.1496	450418	01.2763	450545	01.1945	450629	00.9833	450691	01.1990

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
450694	01.1008	460010	01.6772	490004	01.1843	490069	01.1699	500001	01.2988
450696	01.2454	460011	01.1293	490005	01.2787	490071	01.1745	500002	01.2953
450697	01.2304	460012	01.4155	490006	01.1613	490073	01.1616	500003	01.2344
450698	00.9086	460013	01.3728	490007	01.5710	490074	01.2685	500005	01.5042
450700	00.9887	460014	01.0217	490008	01.0246	490075	01.1478	500007	01.2419
450701	00.6984	460015	01.2033	490009	01.4564	490077	01.1295	500008	01.9887
450702	01.2096	460016	00.9249	490010	01.0392	490078	00.9163	500009	01.2748
450703	01.0625	460017	01.2387	490011	01.1799	490079	01.1059	500010	01.2024
450704	01.1367	460018	00.8652	490012	01.0225	490083	00.7715	500011	01.1916
450705	00.9030	460019	01.0264	490013	01.0617	490084	01.0536	500012	01.3852
450706	01.2122	460020	00.9939	490014	01.3962	490085	01.0696	500014	01.4848
450709	01.1361	460021	01.1972	490015	01.2044	490088	01.0761	500015	01.2445
450711	01.3468	460022	00.9393	490017	01.1685	490089	01.0359	500016	01.3448
450712	00.8230	460023	01.1584	490018	01.1054	490090	01.1163	500017	01.1437
450713	01.2058	460024	01.0109	490019	01.1417	490091	01.2220	500019	01.1422
450715	01.1934	460025	00.9444	490020	01.0338	490092	01.0708	500020	01.2144
450716	01.1248	460026	00.9901	490021	01.1151	490093	01.1837	500021	01.3139
450717	01.2036	460027	00.9560	490022	01.1774	490094	01.1011	500023	01.1107
450718	01.1336	460029	00.9470	490023	01.1373	490095	01.1958	500024	01.2986
450719	01.1723	460030	01.0185	490024	01.4032	490097	01.1036	500025	01.8929
450722	00.9847	460032	00.9920	490027	01.0370	490098	01.1160	500026	01.2474
450723	01.2104	460033	00.9323	490028	01.1385	490099	00.9750	500027	01.4689
450724	01.3384	460035	00.9170	490029	01.0954	490100	01.2153	500028	00.9814
450725	01.1139	460036	00.9470	490030	01.1459	490101	01.0726	500029	00.9389
450726	00.9772	460037	00.9546	490031	01.0680	490104	00.8145	500030	01.3141
450727	01.1896	460039	00.8948	490032	01.5694	490105	00.8637	500031	01.1670
450728	01.1110	460041	01.1674	490033	01.1676	490106	00.8854	500033	01.2310
450729	01.0256	460042	01.2785	490035	01.0514	490107	01.0984	500034	01.0654
450730	01.1512	460043	01.1971	490037	01.0965	490108	00.8593	500035	01.3172
450732	01.0618	460044	01.1211	490038	01.1068	490109	00.9760	500036	01.2075
450733	01.2228	460046	01.0998	490040	01.1403	490110	01.0448	500037	01.0762
450734	01.0771	470001	01.1485	490041	01.1449	490111	01.0617	500039	01.1899
450735	00.9073	470003	01.6120	490042	01.1013	490112	01.3759	500040	01.1214
450736	00.8995	470004	01.0794	490043	01.1645	490113	01.0879	500041	01.1833
450737	00.7386	470005	01.1939	490044	01.1647	490114	01.0365	500042	01.2201
450739	01.1898	470006	01.1434	490045	01.1334	490115	01.0576	500043	01.1373
450740	00.9575	470008	01.1317	490046	01.2298	490116	01.0241	500044	01.7290
450741	00.8762	470010	01.0926	490047	01.1155	490117	00.9668	500045	01.1189
450742	01.1629	470011	01.2452	490048	01.2128	490118	01.4285	500046	01.2633
450743	01.1239	470012	01.1595	490050	01.1466	490119	01.1527	500048	00.8712
450744	01.0244	470013	01.0612	490052	01.3433	490120	01.1897	500049	01.2898
450745	00.7457	470015	01.1573	490053	01.1956	490122	01.1100	500050	01.1577
460001	01.4797	470016	01.0429	490054	01.0816	490123	01.1051	500051	01.3718
460003	01.3695	470018	01.0886	490055	00.9146	490124	01.1487	500052	01.1647
460004	01.4548	470020	00.9799	490057	01.1709	490125	00.9641	500053	01.0959
460005	01.2192	470023	01.2370	490059	01.2585	490126	01.1046	500054	01.6860
460006	01.2000	470024	01.1160	490060	00.9273	490127	00.9375	500055	00.9806
460007	01.1814	490001	00.9416	490063	01.3965	490129	01.1030	500057	01.1951
460008	01.1319	490002	00.9523	490066	01.0482	490130	01.1543	500058	01.2593
460009	01.5388	490003	00.7818	490067	01.1025	490131	00.9014	500059	01.2824

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1987 PAGE 23 OF 24

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
500060	01.1026	500133	01.2009	510060	01.0473	520032	01.1620	520097	01.2036
500061	01.0193	500135	01.1348	510061	01.0296	520033	01.2164	520098	01.5392
500062	01.0517	500138	02.0732	510062	01.1898	520034	01.2319	520100	01.0989
500064	01.3244	500139	01.0987	510063	01.1927	520035	01.1733	520101	01.1259
500065	01.1654	500140	00.9980	510064	01.0156	520037	01.5444	520102	01.1309
500066	00.8212	500141	01.1827	510065	00.9961	520038	01.1650	520103	01.2563
500068	00.9985	510001	01.3507	510066	01.0807	520039	01.0351	520104	00.9569
500069	01.0208	510002	01.1457	510067	01.1590	520040	01.2216	520105	00.9395
500070	01.0813	510004	00.9841	510068	01.1101	520041	01.0601	520107	01.1857
500071	01.0748	510005	01.0043	510070	01.0663	520042	01.0859	520109	01.0333
500072	01.1507	510006	01.1915	510071	01.2260	520043	01.4570	520110	01.0969
500073	01.1159	510007	01.2843	510072	01.0743	520044	01.2865	520111	01.1103
500074	01.1549	510008	01.1595	510074	00.9884	520045	01.4314	520112	01.0693
500075	01.3255	510009	01.1046	510076	00.9715	520047	00.9660	520113	01.1922
500076	01.2703	510011	00.9277	510077	00.9968	520048	01.2763	520114	01.1177
500077	01.2078	510012	01.0623	510080	00.9542	520049	01.6885	520115	01.1475
500078	01.2507	510013	01.1213	510081	01.0119	520051	01.6543	520116	01.1127
500079	01.1421	510014	01.1936	510082	00.9534	520053	01.0359	520117	01.0411
500080	00.9362	510015	00.9921	510084	00.9696	520054	01.1017	520118	00.9319
500084	01.0209	510016	01.0171	510085	01.1437	520056	01.1251	520120	01.0818
500085	01.0628	510018	01.1305	510086	00.9981	520057	01.0957	520121	00.9836
500086	01.2152	510019	00.9045	520001	01.2496	520058	01.0904	520122	01.0875
500087	01.2485	510020	01.1148	520002	01.2524	520059	01.2328	520123	01.0750
500088	01.2559	510022	01.3941	520003	01.1030	520060	01.1450	520124	01.0603
500089	01.0786	510023	01.0237	520004	01.2460	520062	01.1946	520126	00.9392
500090	00.8773	510024	01.1636	520006	01.1108	520063	01.2049	520127	00.9204
500092	01.0533	510025	00.8939	520007	01.1201	520064	01.3728	520130	00.9712
500093	01.1093	510026	00.9515	520008	01.1763	520066	01.1863	520131	01.1044
500094	01.1490	510027	01.0508	520009	01.2862	520068	00.9541	520132	01.1749
500096	01.0947	510028	01.0759	520010	01.0717	520069	01.2269	520134	01.0605
500097	01.0549	510029	01.1299	520011	01.1056	520070	01.2341	520135	00.9664
500098	00.8813	510030	01.0862	520012	00.9894	520071	01.1385	520136	01.3721
500100	01.1003	510031	01.1655	520013	01.1958	520074	01.0901	520138	01.6780
500101	00.9934	510033	01.1904	520014	01.1782	520075	01.2558	520139	01.2344
500102	00.9842	510035	01.0049	520015	01.1511	520076	01.1831	520140	01.2974
500104	01.1098	510036	01.1857	520016	01.0547	520077	01.0780	520141	01.0550
500106	00.9140	510038	01.0630	520017	01.0897	520078	01.1997	520142	00.9885
500107	01.1462	510039	01.1495	520018	01.0951	520081	01.2237	520143	01.0378
500108	01.4898	510040	01.0219	520019	01.1872	520082	01.1926	520144	00.9899
500109	01.1254	510043	01.0280	520020	01.3459	520083	01.4154	520145	01.0608
500110	01.2178	510045	00.8931	520021	01.1660	520084	01.0766	520146	01.1416
500114	01.2746	510046	01.1877	520022	01.0742	520087	01.4120	520148	01.1428
500118	01.1810	510047	01.1839	520024	01.0031	520088	01.1873	520149	01.0604
500119	01.2399	510048	01.1029	520025	01.1256	520089	01.2451	520151	01.0557
500122	01.2384	510050	01.1518	520026	01.1430	520090	01.1162	520152	01.1377
500123	00.8577	510053	00.9988	520027	01.2069	520091	01.2918	520153	01.0409
500124	01.2366	510054	00.9127	520028	01.3051	520092	01.1290	520154	01.1266
500125	01.1076	510055	01.1861	520029	00.9873	520094	01.3597	520156	01.0873
500129	01.5177	510058	01.1682	520030	01.3483	520095	01.1980	520157	01.0677
500132	01.0111	510059	00.7758	520031	01.1682	520096	01.2181	520159	00.9465

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
520160	01.6560								
520161	01.0341								
520167	01.1715								
520170	01.1733								
520171	00.9442								
520173	01.1330								
520174	01.3669								
520175	00.7370								
520177	01.3275								
520178	01.1839								
520184	00.7272								
520185	00.9238								
530001	01.1147								
530002	01.1401								
530003	00.9118								
530004	00.9755								
530005	01.0481								
530006	01.0975								
530007	01.1946								
530008	01.0815								
530009	01.0371								
530010	01.0411								
530011	01.0954								
530012	01.3736								
530014	01.1096								
530015	01.0795								
530016	01.1471								
530017	00.8974								
530018	00.9517								
530019	00.8796								
530022	01.0049								
530023	00.9446								
530024	01.0081								
530025	01.1583								
530026	01.0980								
530027	00.9500								
530029	01.0855								
530031	00.8675								
530032	00.9926								

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH JUNE 1988.

BILLING CODE 4120-01-C

TABLE 4A.—WAGE INDEX FOR URBAN AREAS

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Abilene, TX	0.8629
Taylor, TX	
Aguadilla, PR	0.4596
Aguada, PR	
Aguadilla, PR	
Isabella, PR	
Moca, PR	
Akron, OH	0.9994
Portage, OH	
Summit, OH	
Albany, GA	0.7724
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	0.8675
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Albuquerque, NM	1.0158
Bernalillo, NM	
Alexandria, LA	0.8158
Rapides, LA	
Allentown-Bethlehem, PA-NJ	0.9828
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	0.9446
Blair, PA	
Amarillo, TX	0.9297
Potter, TX	
Randall, TX	
*Anaheim-Santa Ana, CA	1.1994
Orange, CA	
Anchorage, AK	1.4575
Anchorage, AK	
Anderson, IN	0.9027
Henry, IN	
Madison, IN	
Anderson, SC	0.7815
Anderson, SC	
Ann Arbor, MI	1.1507
Lenawee	
Washtenaw, MI	
Anniston, AL	0.7824
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	0.9746
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
Arecibo, PR	0.4375
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
Quebradillas, PR	
Asheville, NC	0.8474
Buncombe, NC	
Athens, GA	0.7686
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
*Atlanta, GA	0.9168

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	0.9868
Atlantic, NJ	
Cape May, NJ	
Augusta, GA-SC	0.8881
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	1.0093
Kane, IL	
Kendall, IL	
Austin, TX	1.0378
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.1081
Kern, CA	
*Baltimore, MD	1.0148
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
Bangor, ME	0.8879
Penobscot, ME	
Baton Rouge, LA	0.9375
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	0.9602
Barry, MI	
Calhoun, MI	
Beaumont-Port Arthur, TX	0.9366
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	0.9436
Columbiana, OH	
Beaver, PA	
Lawrence, PA	
Bellingham, WA	1.0790
Whatcom, WA	
Benton Harbor, MI	0.8382
Berrien, MI	
Cass, MI	
*Bergen-Passaic, NJ	1.0267
Bergen, NJ	
Passaic, NJ	
Billings, MT	0.9726
Yellowstone, MT	
Biloxi-Gulfport, MS	0.7987
Hancock, MS	
Harrison, MS	
Binghamton, NY	0.9079

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Broome, NY	
Tioga, NY	
Birmingham, AL	0.9198
Blount, AL	
Jefferson, AL	
Saint Clair, AL	
Shelby, AL	
Walker, AL	
Bismarck, ND	0.9287
Burleigh, ND	
Morton, ND	
Bloomington, IN	0.9188
Monroe, IN	
Owen, IN	
Bloomington-Normal, IL	0.9434
McLean, IL	
Boise City, ID	1.0036
Ada, ID	
*Boston-Lawrence-Salem-Lowell-Brockton, MA	1.0792
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	1.0685
Boulder, CO	
Brandenton, FL	0.8768
Manatee, FL	
Brazoria, TX	0.8308
Brazoria, TX	
Bremerton, WA	0.9378
Kitsap, WA	
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1195
Fairfield, CT	
Brownsville-Harlingen, TX	0.8512
Cameron, TX	
Bryan-College Station, TX	0.9347
Brazos, TX	
Buffalo, NY	0.9697
Erie, NY	
Burlington, NC	0.7525
Alamance, NC	
Burlington, VT	0.9435
Chittenden, VT	
Grand Isle, VT	
Caguas, PR	0.3978
Caguas, PR	
Gurabo, PR	
San Lorenz, PR	
Aguas Buenas, PR	
Cayey, PR	
Cidra, PR	
Canton, OH	0.9167
Carroll, OH	
Stark, OH	
Casper, WY	0.9814
Natrona, WY	
Cedar Rapids, IA	0.9215
Linn, IA	
Champaign-Urbana-Rantoul, IL	0.9114
Champaign, IL	
Charleston, SC	0.8441
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	0.9727
Kanawha, WV	
Lincoln, WV	
Putnam, WV	
*Charlotte-Gastonia-Rock Hill, NC-SC	0.8398

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
Charlottesville, VA	0.8795
Albermarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
Chattanooga, TN-GA	0.9138
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Cheyenne, WY	0.8932
Laramie, WY	
*Chicago, IL	1.1179
Cook, IL	
Du Page, IL	
McHenry, IL	
Chico, CA	1.1112
Butte, CA	
*Cincinnati, OH-KY-IN	1.0288
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN-KY	0.7463
Christian, KY	
Montgomery, TN	
*Cleveland, OH	1.0793
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	1.0016
El Paso, CO	
Columbia, MO	1.0346
Boone, MO	
Columbia, SC	0.8425
Lexington, SC	
Richland, SC	
Columbus, GA-AL	0.7383
Russell, AL	
Chattanoochee, GA	
Muscogee, GA	
Columbus, OH	0.9267
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	0.8776
Nueces, TX	
San Patricio, TX	
Cumberland, MD-WV	0.8771
Allegeny, MD	
Mineral, WV	
*Dallas, TX	1.0075
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	0.7598
Caswell, NC	
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA-IL	0.9711
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	1.0077
Clark, OH	
Greene, OH	
Miami, OHN	
Montgomery, OH	
Preble, OH	
Daytona Beach, FL	0.8519
Volusia, FL	
Decatur, AL	0.7277
Lawrence, AL	
Limestone, AL	
Morgen, AL	
Decatur, IL	0.8939
Macon, IL	
*Denver, CO	1.1898
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Moines, IA	0.9794
Dallas, IA	
Polk, IA	
Warren, IA	
*Detroit, MI	1.0878
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	0.7903
Dale, AL	
Houston, AL	
Dubuque, IA	0.9683
Dubuque, IA	
Duluth, MN-WI	0.9447
St. Louis, MN	
Douglas, WI	
Eau Claire, WI	0.8877
Chippewa, WI	
Eau Claire, WI	
El Paso, TX	0.8823
El Paso, TX	
Elkhart-Goshen, IN	0.9114
Elkhart, IN	
Elmira, NY	0.9125
Chemung, NY	
Enid, OK	0.9097
Garfield, OK	
Erie, PA	0.9459
Erie, PA	
Eugene-Springfield, OR	1.0322
Lane, OR	
Evansville, IN-KY	0.9932
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND-MN	1.0000
Clay, MN	
Cass, ND	
Fayetteville, NC	0.7872
Cumberland, NC	
Harnett, NC	
Fayetteville-Springdale, AR	0.7471
Washington, AR	
Flint, MI	1.1423
Genesee, MI	
Shiawassee, MI	
Florence, AL	0.7234
Colbert, AL	
Lauderdale, AL	
Florence, SC	0.7448
Florence, SC	
Fort Collins-Loveland, CO	1.0221
Larimer, CO	
*Fort Lauderdale-Hollywood-Pompano Beach, FL	1.0393
Broward, FL	
Fort Myers-Cape Coral, FL	0.8962
Lee, FL	
Fort Pierce, FL	0.9520
Indian River, FL	
Martin, FL	
St. Lucie, FL	
Fort Smith, AR-OK	0.8700
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL	0.8185
Okaloosa, FL	
Fort Wayne, IN	0.8981
Allen, IN	
De Kalb, IN	
Whitley, IN	
*Fort Worth-Arlington, TX	0.9446
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.0944
Fresno, CA	
Gadsden, AL	0.8368
Etowah, AL	
Gainesville, FL	0.8875
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX	1.0749
Galveston, TX	
Gary-Hammond, IN	1.0383
Lake, IN	
Porter, IN	
Glens Falls, NY	0.8863
Warren, NY	
Washington, NY	
Grand Forks, ND	0.9433
Grand Forks, ND	
Grand Rapids, MI	1.0005
Allegan, MI	
Kent, MI	
Ottawa, MI	
Great Falls, MT	0.9936
Cascade, MT	
Greely, CO	1.0143
Weld, CO	
Green Bay, WI	0.9662
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	0.8684

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC	0.8804
Cherokee, SC	
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	0.8842
Washington, MD	
Hamilton-Middletown, OH	0.9619
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA	0.9875
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
*Hartford-Middletown-New Britain-Bristol, CT	1.0864
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
Hickory, NC	0.8310
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.1308
Honolulu, HI	
Houma-Thibodaux, LA	0.8060
Lafourche, LA	
Terrebonne, LA	
*Houston, TX	0.9835
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV-KY-OH	0.9038
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	0.7974
Madison, AL	
Marshall, AL	
*Indianapolis, IN	0.9911
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA	1.1596
Johnson, IA	
Jackson, MI	0.9417
Jackson, MI	
Jackson, MS	0.8414
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN	0.7484
Madison, TN	
Jacksonville, FL	0.8896
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	0.7336
Onslow, NC	
Janesville-Beloit, WI	0.8908
Rock, WI	
Jersey City, NJ	1.0566
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN-VA	0.8420
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	0.9032
Cambria, PA	
Somerset, PA	
Joliet, IL	1.0475
Grundy, IL	
Will, IL	
Joplin, MO	0.8623
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.1082
Kalamazoo, MI	
Van Buren, MI	
Kankakee, IL	0.8961
Kankakee, IL	
*Kansas, City, KS-MO	1.0023
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Clinton, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI	1.0352
Kenosha, WI	
Killeen-Temple, TX	0.9755
Bell, TX	
Coryell, TX	
Knoxville, TN	0.8310
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN	0.9323
Howard, IN	
Tipton, IN	
LaCrosse, WI	0.9600
LaCrosse, WI	
Lafayette, LA	0.9233
Lafayette, LA	
St. Martin, LA	
Lafayette, IN	0.8641
Clinton, IN	
Tippecanoe, IN	
Lake Charles, LA	0.9145
Calcasieu, LA	
Lake County, IL	1.0871
Lake, IL	
Lakeland-Winter Haven, FL	0.8236
Polk, FL	
Lancaster, PA	0.9836
Lancaster, PA	
Lansing-East Lansing, MI	1.0160
Clinton, MI	
Eaton, MI	
Ingham, MI	
Ionia, MI	
Laredo, TX	0.7499
Webb, TX	
Las Cruces, NM	0.8336
Dona Ana, NM	
Las Vegas, NV	1.0839
Clark, NV	
Lawrence, KS	0.9718
Douglas, KS	
Lawton, OK	0.8554
Comanche, OK	
Lewiston-Auburn, ME	0.9006
Androscoggin, ME	
Lexington-Fayette, KY	0.9199
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Scott, KY	
Woodford, KY	
Lima, OH	0.9133
Allen, OH	
Auglaize, OH	
Van Wert, OH	
Lincoln, NE	0.9258
Lancaster, NE	
Little Rock-North Little Rock, AR	0.9363
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
Longview-Marshall, TX	0.8012
Gregg, TX	
Harrison, TX	
Lorain-Elyria, OH	0.9490
Lorain, OH	
*Los Angeles-Long Beach, CA	1.2426
Los Angeles, CA	
Louisville, KY-IN	0.9491
Clark, IN	
Floyd, IN	
Harrison, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
Shelby, KY	
Lubbock, TX	0.9539
Lubbock, TX	
Lynchburg, VA	0.8560
Amherst, VA	
Campbell, VA	
Lynchburg City, VA	
Macon-Warner Robbins, GA	0.8264
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Madison, WI	1.0137
Dane, WI	
Manchester-Nashua, NH	0.9174
Hillsborough, NH	
Merrimack, NH	
Mansfield, OH	0.8929
Morrow, OH	
Richland, OH	
Mayaguez, PR	0.4813

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
San German, PR	
McAllen-Edinburg-Mission, TX	0.7632
Hidalgo, TX	
Medford, OR	0.9671
Jackson, OR	
Melbourne-Titusville, FL	0.8835
Brevard, FL	
Memphis, TN-AR-MS	0.9616
Crittenden, AR	
De Soto, MS	
Shelby, TN	
Tipton, TN	
Merced, CA	1.0703
Merced, CA	
*Miami-Hialeah, FL	1.0120
Dade, FL	
Middlesex-Somerset-Hunterdon, NJ	0.9807
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
Midland, TX	1.0544
Midland, TX	
*Milwaukee, WI	1.0360
Jefferson, WI	
Milwaukee, WI	
Ozaukee, WI	
Walworth, WI	
Washington, WI	
Waukesha, WI	
*Minneapolis-St. Paul, MN-WI	1.1181
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Washington, MN	
Wright, MN	
St. Croix, WI	
Mobile, AL	0.8294
Baldwin, AL	
Mobile, AL	
Modesto, CA	1.1012
Stanislaus, CA	
Monmouth-Ocean, NJ	0.9337
Monmouth, NJ	
Ocean, NJ	
Monroe, LA	0.8446
Quachita, LA	
Montgomery, AL	0.8137
Autauga, AL	
Elmore, AL	
Montgomery, AL	
Muncie, IN	0.9536
Delaware, IN	
Muskegon, MI	0.9590
Muskegon, MI	
Naples, FL	0.9889
Collier, FL	
Nashville, TN	0.8851
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
*Nassau-Suffolk, NY	1.2322
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	0.9323
Bristol, MA	
New Haven-Waterbury-Meriden, CT	1.0660
New Haven, CT	
New London-Norwich, CT	1.0529
New London, CT	
*New Orleans, LA	0.9049
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	
*New York, NY	1.3052
Bronx, NY	
Kings, NY	
New York City, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
*Newark, NJ	1.0775
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Niagara Falls, NY	0.8466
Niagara, NY	
*Norfolk-Virginia Beach-Newport News, VA	0.9168
Currituck, NC	
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
Isle of Wight, VA	
James City Co., VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
*Oakland, CA	1.3980
Alameda, CA	
Contra Costa, CA	
Ocala, FL	0.8158
Marion, FL	
Odessa, TX	0.8892
Ector, TX	
Oklahoma City, OK	1.0036
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
Olympia WA	1.0317
Thurston, WA	
Omaha, NE-IA	0.9793
Pottawttamie, IA	
Cass, NE	
Douglas, NE	
Sarpy, NE	
Washington, NE	
Orange County, NY	0.8801
Orange, NY	
Orlando, FL	0.9329
Orange, FL	
Osceola, FL	
Seminole, FL	
Owensboro, KY	0.8333
Daviess, KY	
Oxnard-Ventura, CA	1.2965
Ventura, CA	
Panama City, FL	0.7858
Bay, FL	
Parkersburg-Marietta, WV-OH	0.8800
Washington, OH	
Wood, WV	
Pascagoula, MS	0.8902
Jackson, MS	
Pensacola, FL	0.08215
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	0.9807
Mason, IL	
Peoria, IL	
Tazewell, IL	
Woodford, IL	
*Philadelphia, PA-NJ	1.0900
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
*Phoenix, AZ	1.0061
Maricopa, AZ	
Pine Bluff, AR	0.7743
Jefferson, AR	
*Pittsburgh, PA	1.0206
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	0.9915
Berkshire, MA	
Ponce , PR	0.5480
Juana Diaz, PR	
Pounce, PR	
Portland, ME	0.9432
Cumberland, ME	
Sagadahoc, ME	
York, Me	
*Portland, OR	1.1258
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	0.9085
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	0.9567
Dutchess, NY	
*Providence-Pawtucket-Woonsocket, RI	0.9781
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
Provo-Orem, UT	0.9250
Utah, UT	
Pueblo, CO	0.9892
Pueblo, CO	
Racine, WI	0.9271
Racine, WI	
Raleigh-Durham, NC	0.9246

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	0.8677
Pennington, SD	
Reading, PA	0.9353
Berks, PA	
Redding, CA	1.0749
Shasta, CA	
Reno, NV	1.1168
Washoe, NV	
Richland-Kennewick, WA	0.9658
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	0.8907
Charles City Co., 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	
*Riverside-San Bernardino, CA	1.1502
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	0.8291
Bedford, VA	
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.0223
Olmsted, MN	
Rochester, NY	0.9416
Genesee, NY	
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	1.0215
Boone, IL	
Winnebago, IL	
*Sacramento, CA	1.2104
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.0502
Bay, MI	
Midland, MI	
Saginaw, MI	
Tuscola, MI	
St. Cloud, MN	0.9632
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	0.8784
Buchanan, MO	
*St. Louis, MO-IL	1.0113

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Clinton, IL	
Jersey, IL	
Macoupin, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Sullivan City, MO	
Salem, OR	1.0384
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.2173
Monterey, CA	
*Salt Lake City-Ogden, UT	0.9480
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	0.8277
Tom Green, TX	
*San Antonio, TX	0.8351
Bexar, TX	
Comal, TX	
Guadalupe, TX	
*San Diego, CA	1.2313
San Diego, CA	
*San Francisco, CA	1.4902
Marin, CA	
San Francisco, CA	
San Mateo, CA	
*San Jose, CA	1.4279
Santa Clara, CA	
*San Juan, PR	0.5369
Barcelona, PR	
Bayoman, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Corozal, PR	
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trojillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Santa Barbara-Santa Maria-Lompoc, CA	1.1392
Santa Barbara, CA	
Santa Cruz, CA	1.1980
Santa Cruz, CA	
Santa Fe, NM	0.9334
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.3232
Sonoma, CA	
Sarasota, FL	0.8975
Charlotte, FL	
Sarasota, FL	
Savannah, GA	0.8380

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Chatham, GA	
Effingham, GA	
Scranton-Wilkes Barre, PA	0.9290
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
*Seattle, WA	1.0868
King, WA	
Snohomish, WA	
Sharon, PA	0.9170
Mercer, PA	
Sheboygan, WI	0.9289
Sheboygan, WI	
Sherman-Denison, TX	0.8259
Grayson, TX	
Shreveport, LA	0.8967
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE	0.9221
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	0.9523
Minnehaha, SD	
South Bend-Mishawaka, IN	0.9576
St. Joseph, IN	
Spokane, WA	1.0790
Spokane, WA	
Springfield, IL	0.9871
Christian, IL	
Menard, IL	
Sangamon, IL	
Springfield, MO	0.9047
Christian, MO	
Greene, MO	
Springfield, MA	0.9727
Hampden, MA	
Hampshire, MA	
State College, PA	1.0272
Centre, PA	
Steubenville-Weirton, OH-WV	0.9078
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.1708
San Joaquin, CA	
Syracuse, NY	0.9700
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.0294
Pierce, WA	
Tallahassee, FL	0.8506
Gadsden, FL	
Leon, FL	
*Tampa-St. Petersburg-Clearwater, FL	0.9098
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	0.8065
Clay, IN	
Virgo, IN	
Texarkana, TX-Texarkana, AR	0.8047
Miller, AR	
Bowie, TX	
Toledo, OH	1.1069
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KA	0.9759
Jefferson, KS	
Shawnee, KS	
Trenton, NJ	0.9982

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Mercer, NJ	
Tucson, AZ	0.9609
Pima, AZ	
Tulsa, OK	0.9319
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	0.9471
Tuscaloosa, AL	
Tyler, TX	0.9298
Smith, TX	
Utica-Rome, NY	0.8186
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.2408
Napa, CA	
Solano, CA	
Vancouver, WA	1.0740
Clark, WA	
Victoria, TX	0.7968
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	0.9550
Cumberland, NJ	
Visalia-Tulare-Porterville, CA	1.1380
Tulare, CA	
Waco, TX	0.8559
McLennan, TX	
*Washington, DC-MD-VA	1.0922
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Fredericksburg City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Spotsylvania, VA	
Stafford, VA	
Jefferson, WV	
Waterloo-Cedar Falls, IA	0.9403
Black Hawk, IA	
Bremer, IA	
Wausau, WI	0.9428

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Areas That Qualify as Large Urban Areas Are Designated With an Asterisk

Urban area (constituent counties or county equivalents)	Wage index
Marathon, WI	
West Palm Beach-Boca Raton-Delray Beach, FL	0.9402
Palm Beach, FL	
Wheeling, WV-OH	0.8848
Belmonth, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS	1.0438
Butler, KS	
Harvey, KS	
Sedgwick, KS	
Wichita Falls, TX	0.8264
Wichita, TX	
Williamsport, PA	0.8845
Lycoming, PA	
Wilmington, DE-NJ-MD	1.0093
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC	0.8577
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA	0.9431
Worcester, MA	
Yakima, WA	0.9820
Yakima, WA	
York, PA	0.9312
Adams, PA	
York, PA	
Youngstown-Warren, OH	0.9912
Mahoning, OH	
Trumbull, OH	
Yuba City, CA	0.9939
Sutter, CA	
Yuba, CA	

TABLE 4B.—WAGE INDEX FOR RURAL AREAS

Nonurban area	Wage index
Alabama	0.6926
Alaska	1.3880
Arizona	0.8753
Arkansas	0.7100
California	1.0397
Colorado	0.8640
Connecticut	0.9982
Delaware	0.8211
Florida	0.8007
Georgia	0.7363
Hawaii	0.9172

TABLE 4B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index
Idaho	0.8302
Illinois	0.8171
Indiana	0.8073
Iowa	0.8046
Kansas	0.7922
Kentucky	0.7730
Louisiana	0.7818
Maine	0.8166
Maryland	0.8088
Massachusetts	1.0003
Michigan	0.8968
Minnesota	0.8578
Mississippi	0.7193
Missouri	0.7626
Montana	0.8532
Nebraska	0.7728
Nevada	0.9789
New Hampshire	0.8765
New Jersey [1]	
New Mexico	0.8335
New York	0.8129
North Carolina	0.7626
North Dakota	0.8437
Ohio	0.8570
Oklahoma	0.7914
Oregon	0.9999
Pennsylvania	0.8788
Puerto Rico	0.5377
Rhode Island [1]	
South Carolina	0.7280
South Dakota	0.7645
Tennessee	0.7140
Texas	0.7623
Utah	0.8756
Vermont	0.8362
Virginia	0.7747
Washington	0.9767
West Virginia	0.8387
Wisconsin	0.8395
Wyoming	0.9072

[1] All counties within the State are classified urban.

BILLING CODE 4120-01-M

TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

					RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
1	01	SURG		CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.4873	14.0	36	38
2	01	SURG		CRANIOTOMY FOR TRAUMA AGE >17	4.1406	13.0	35	37
3	01	SURG	*	CRANIOTOMY AGE 0-17	2.9183	12.7	34	37
4	01	SURG		SPINAL PROCEDURES	2.6837	12.2	34	36
5	01	SURG		EXTRACRANIAL VASCULAR PROCEDURES	1.5585	6.5	21	30
6	01	SURG		CARPAL TUNNEL RELEASE	.4496	2.0	8	16
7	01	SURG		PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC WITH CC	2.8433	11.8	34	36
8	01	SURG		PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	.7432	3.3	20	27
9	01	MED		SPINAL DISORDERS & INJURIES	1.2857	7.0	29	31
10	01	MED		NERVOUS SYSTEM NEOPLASMS WITH CC	1.2443	7.8	30	32
11	01	MED		NERVOUS SYSTEM NEOPLASMS W/O CC	.7852	5.0	27	29
12	01	MED		DEGENERATIVE NERVOUS SYSTEM DISORDERS	.9296	6.9	29	31
13	01	MED		MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	.9281	7.4	29	31
14	01	MED		SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.2348	7.5	29	31
15	01	MED		TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	.6333	4.2	17	28
16	01	MED		NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.0512	6.6	29	31
17	01	MED		NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	.6302	4.5	20	29
18	01	MED		CRANIAL & PERIPHERAL NERVE DISORDERS WITH CC	.9585	6.3	28	30
19	01	MED		CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	.6085	4.3	22	28
20	01	MED		NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	1.7083	7.9	30	32
21	01	MED		VIRAL MENINGITIS	1.3601	7.2	29	31
22	01	MED		HYPERTENSIVE ENCEPHALOPATHY	.7025	4.5	18	29
23	01	MED		NONTRAUMATIC STUPOR & COMA	.9441	4.5	27	29
24	01	MED		SEIZURE & HEADACHE AGE >17 WITH CC	.9528	5.3	25	29
25	01	MED		SEIZURE & HEADACHE AGE >17 W/O CC	.5332	3.6	15	28
26	01	MED		SEIZURE & HEADACHE AGE 0-17	.9116	2.9	20	27
27	01	MED		TRAUMATIC STUPOR & COMA, COMA >1 HR	1.6526	4.7	27	29
28	01	MED		TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 WITH CC	1.2170	6.0	28	30
29	01	MED		TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	.5937	3.5	20	28
30	01	MED	*	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	.3539	2.0	8	17
31	01	MED		CONCUSSION AGE >17 WITH CC	.6667	4.2	22	28
32	01	MED		CONCUSSION AGE >17 W/O CC	.4063	2.8	13	27
33	01	MED	*	CONCUSSION AGE 0-17	.2457	1.6	5	9
34	01	MED		OTHER DISORDERS OF NERVOUS SYSTEM WITH CC	1.2705	6.2	28	30
35	01	MED		OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	.5770	3.9	19	28

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NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.
NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
36	02	SURG	RETINAL PROCEDURES	.6571	2.9	9	16
37	02	SURG	ORBITAL PROCEDURES	.7274	3.0	15	27
38	02	SURG	PRIMARY IRIS PROCEDURES	.3692	2.2	9	17
39	02	SURG	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	.4722	1.7	5	7
40	02	SURG	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	.4763	2.0	8	18
41	02	SURG *	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	.3657	1.6	4	7
42	02	SURG	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	.6424	2.4	9	17
43	02	MED	HYPHEMA	.3699	3.7	16	28
44	02	MED	ACUTE MAJOR EYE INFECTIONS	.6346	5.8	20	30
45	02	MED	NEUROLOGICAL EYE DISORDERS	.5532	3.4	14	27
46	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W CC	.6321	3.9	24	28
47	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	.3652	2.6	13	27
48	02	MED *	OTHER DISORDERS OF THE EYE AGE 0-17	.4018	2.9	14	27
49	03	SURG	MAJOR HEAD & NECK PROCEDURES	2.8418	11.2	33	35
50	03	SURG	SIALOADENECTOMY	.6448	2.6	9	17
51	03	SURG	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	.5708	2.3	9	16
52	03	SURG	CLEFT LIP & PALATE REPAIR	.8499	3.0	16	27
53	03	SURG	SINUS & MASTOID PROCEDURES AGE >17	.6172	2.1	10	20
54	03	SURG *	SINUS & MASTOID PROCEDURES AGE 0-17	.6889	3.2	11	22
55	03	SURG	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES	.4613	1.7	6	12
56	03	SURG	RHINOPLASTY	.4684	1.8	7	13
57	03	SURG	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	.9321	3.6	25	28
58	03	SURG *	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	.3097	1.5	3	4
59	03	SURG	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	.3901	1.6	6	10
60	03	SURG *	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	.2616	1.5	3	4
61	03	SURG	MYRINGOTOMY W TUBE INSERTION AGE >17	.7994	2.6	20	27
62	03	SURG *	MYRINGOTOMY W TUBE INSERTION AGE 0-17	.3089	1.3	3	5
63	03	SURG	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.1811	4.4	26	28
64	03	MED	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.0883	4.9	27	29
65	03	MED	DYSEQUILIBRIUM	.4557	3.4	12	23
66	03	MED	EPISTAXIS	.4394	3.2	13	25
67	03	MED	EPIGLOTTITIS	1.0470	4.8	20	29
68	03	MED	OTITIS MEDIA & URI AGE >17 WITH CC	.7806	5.1	19	29
69	03	MED	OTITIS MEDIA & URI AGE >17 W/O CC	.5349	3.9	14	27
70	03	MED	OTITIS MEDIA & URI AGE 0-17	.5853	3.4	14	27

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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 MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

					RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
71	03	MED		LARYNGOTRACHEITIS	.8933	4.4	22	28
72	03	MED		NASAL TRAUMA & DEFORMITY	.5256	3.2	16	27
73	03	MED		OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	.7629	3.8	23	28
74	03	MED	*	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	.3427	2.1	9	20
75	04	SURG		MAJOR CHEST PROCEDURES	3.0335	12.2	34	36
76	04	SURG		OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.4324	10.3	32	34
77	04	SURG		OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.0488	4.1	26	28
78	04	MED		PULMONARY EMBOLISM	1.4685	8.9	31	33
79	04	MED		RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 WITH CC	2.0375	9.7	32	34
80	04	MED		RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	1.2339	7.5	29	31
81	04	MED	*	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	1.1032	6.1	27	30
82	04	MED		RESPIRATORY NEOPLASMS	1.2367	6.6	29	31
83	04	MED		MAJOR CHEST TRAUMA WITH CC	1.0107	6.5	28	30
84	04	MED		MAJOR CHEST TRAUMA W/O CC	.5214	4.1	17	28
85	04	MED		PLEURAL EFFUSION WITH CC	1.1663	6.9	29	31
86	04	MED		PLEURAL EFFUSION W/O CC	.7357	4.7	22	29
87	04	MED		PULMONARY EDEMA & RESPIRATORY FAILURE	1.5108	5.8	28	30
88	04	MED		CHRONIC OBSTRUCTIVE PULMONARY DISEASE	1.1210	6.3	25	30
89	04	MED		SIMPLE PNEUMONIA & PLEURISY AGE >17 WITH CC	1.2695	7.3	29	31
90	04	MED		SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	.8268	5.9	19	30
91	04	MED		SIMPLE PNEUMONIA & PLEURISY AGE 0-17	.7603	4.3	15	28
92	04	MED		INTERSTITIAL LUNG DISEASE WITH CC	1.3142	6.9	29	31
93	04	MED		INTERSTITIAL LUNG DISEASE W/O CC	.8364	5.1	24	29
94	04	MED		PNEUMOTHORAX WITH CC	1.3972	7.5	29	31
95	04	MED		PNEUMOTHORAX W/O CC	.7104	5.0	20	29
96	04	MED		BRONCHITIS & ASTHMA AGE >17 WITH CC	1.0137	6.1	21	30
97	04	MED		BRONCHITIS & ASTHMA AGE >17 W/O CC	.7076	4.8	15	27
98	04	MED		BRONCHITIS & ASTHMA AGE 0-17	.6356	3.8	14	27
99	04	MED		RESPIRATORY SIGNS & SYMPTOMS WITH CC	.7450	4.0	17	28
100	04	MED		RESPIRATORY SIGNS & SYMPTOMS W/O CC	.5080	2.8	10	19
101	04	MED		OTHER RESPIRATORY SYSTEM DIAGNOSES WITH CC	.9841	5.4	26	29
102	04	MED		OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	.5818	3.6	17	28
103	05	SURG		HEART TRANSPLANT	14.7080	32.9	55	57
104	05	SURG		CARDIAC VALVE PROCEDURE W PUMP & W CARDIAC CATH	7.5631	18.0	40	42
105	05	SURG		CARDIAC VALVE PROCEDURE W PUMP & W/O CARDIAC CATH	5.9439	13.2	35	37

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				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD ***	
						(A)	(B)
106	05	SURG	CORONARY BYPASS W CARDIAC CATH	5.5493	14.3	36	38
107	05	SURG	CORONARY BYPASS W/O CARDIAC CATH	4.2102	11.0	28	35
108	05	SURG	OTHER CARDIOTHORACIC OR VASCULAR PROCEDURES, W PUMP	5.5817	11.4	33	35
109	05	SURG	OTHER CARDIOTHORACIC PROCEDURES W/O PUMP	3.7756	7.4	29	31
110	05	SURG	MAJOR RECONSTRUCTIVE VASCULAR PROC W/O PUMP WITH CC	3.6677	12.7	35	37
111	05	SURG	MAJOR RECONSTRUCTIVE VASCULAR PROC W/O PUMP W/O CC	2.1617	8.9	27	33
112	05	SURG	VASCULAR PROCEDURES EXCEPT MAJOR RECONSTRUCTION W/O PUMP	1.9042	5.7	28	30
113	05	SURG	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	2.4673	14.7	37	39
114	05	SURG	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	1.7145	10.2	32	34
115	05	SURG	PERM CARDIAC PACEMAKER IMPLANT W AMI, HEART FAILURE OR SHOCK	3.9800	12.8	35	37
116	05	SURG	PERM CARDIAC PACEMAKER IMPLANT W/O AMI, HEART FAILURE OR SHOCK	2.6632	6.5	25	30
117	05	SURG	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	1.2223	4.6	23	29
118	05	SURG	CARDIAC PACEMAKER DEVICE REPLACEMENT	1.6529	2.8	13	27
119	05	SURG	VEIN LIGATION & STRIPPING	.8264	4.0	23	28
120	05	SURG	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.7403	11.3	33	35
121	05	MED	CIRCULATORY DISORDERS W AMI & C.V. COMP DISCH ALIVE	1.6545	9.1	31	38
122	05	MED	CIRCULATORY DISORDERS W AMI W/O C.V. COMP DISCH ALIVE	1.1455	6.8	26	31
123	05	MED	CIRCULATORY DISORDERS W AMI, EXPIRED	1.4232	3.0	25	27
124	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG	1.1854	4.5	24	28
125	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG	.6823	2.4	10	20
126	05	MED	ACUTE & SUBACUTE ENDOCARDITIS	3.0532	17.3	39	41
127	05	MED	HEART FAILURE & SHOCK	1.0365	6.2	26	30
128	05	MED	DEEP VEIN THROMBOPHLEBITIS	.8359	8.0	22	32
129	05	MED	CARDIAC ARREST, UNEXPLAINED	1.5132	2.8	25	27
130	05	MED	PERIPHERAL VASCULAR DISORDERS WITH CC	.8896	5.8	28	30
131	05	MED	PERIPHERAL VASCULAR DISORDERS W/O CC	.5886	4.2	24	28
132	05	MED	ATHEROSCLEROSIS WITH CC	.7738	4.5	19	28
133	05	MED	ATHEROSCLEROSIS W/O CC	.5624	3.4	14	27
134	05	MED	HYPERTENSION	.6026	4.3	17	28
135	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE > 17 WITH CC	.8927	5.2	24	29
136	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE > 17 W/O CC	.5713	3.6	14	28
137	05	MED	* CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17	.6315	3.3	21	27
138	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS WITH CC	.8488	4.8	20	29
139	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	.5742	3.5	14	27
140	05	MED	ANGINA PECTORIS	.6559	4.1	14	26

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				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
141	05	MED	SYNCOPE & COLLAPSE WITH CC	.6882	4.5	18	28
142	05	MED	SYNCOPE & COLLAPSE W/O CC	.5203	3.4	13	24
143	05	MED	CHEST PAIN	.5397	3.0	11	20
144	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.1483	5.8	28	30
145	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	.6434	3.6	16	28
146	06	SURG	RECTAL RESECTION WITH CC	2.7773	14.3	36	38
147	06	SURG	RECTAL RESECTION W/O CC	1.8664	10.7	26	35
148	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES WITH CC	3.2745	14.6	37	39
149	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.7756	10.4	23	34
150	06	SURG	PERITONEAL ADHESIOLYSIS WITH CC	2.7173	12.6	35	37
151	06	SURG	PERITONEAL ADHESIOLYSIS W/O CC	1.4527	8.7	25	33
152	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES WITH CC	1.4807	8.1	30	32
153	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.0636	6.8	21	31
154	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE > 17 WITH CC	3.8125	13.3	35	37
155	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE > 17 W/O CC	1.7209	8.5	30	32
156	06	SURG *	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17	.8382	6.0	21	30
157	06	SURG	ANAL & STOMAL PROCEDURES WITH CC	.9779	5.5	25	30
158	06	SURG	ANAL & STOMAL PROCEDURES W/O CC	.5287	3.2	12	25
159	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 WITH CC	1.1103	5.7	23	30
160	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC	.6585	3.7	13	25
161	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 WITH CC	.7331	3.7	16	28
162	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	.4714	2.4	8	15
163	06	SURG	HERNIA PROCEDURES AGE 0-17	.9388	4.6	23	29
164	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG WITH CC	2.4065	11.2	31	35
165	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.4236	7.9	18	27
166	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG WITH CC	1.4556	7.0	23	31
167	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	.8008	4.5	11	18
168	03	SURG	MOUTH PROCEDURES WITH CC	.9713	3.6	24	28
169	03	SURG	MOUTH PROCEDURES W/O CC	.5320	2.2	9	19
170	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES WITH CC	2.7677	11.4	33	35
171	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.3797	6.6	29	31
172	06	MED	DIGESTIVE MALIGNANCY WITH CC	1.2026	7.0	29	31
173	06	MED	DIGESTIVE MALIGNANCY W/O CC	.7004	4.2	25	28
174	06	MED	G.I. HEMORRHAGE WITH CC	.9816	5.7	23	30
175	06	MED	G.I. HEMORRHAGE W/O CC	.6376	4.3	14	26

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LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
176	06	MED	COMPLICATED PEPTIC ULCER	.9927	6.1	25	30
177	06	MED	UNCOMPLICATED PEPTIC ULCER WITH CC	.7733	5.4	18	29
178	06	MED	UNCOMPLICATED PEPTIC ULCER W/O CC	.5684	4.2	13	23
179	06	MED	INFLAMMATORY BOWEL DISEASE	1.0929	7.3	29	31
180	06	MED	G.I. OBSTRUCTION WITH CC	.9165	5.9	27	30
181	06	MED	G.I. OBSTRUCTION W/O CC	.5340	4.1	15	28
182	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 WITH CC	.7386	5.0	19	29
183	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC	.5284	3.7	14	27
184	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17	.6446	2.9	16	27
185	03	MED	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17	.7488	4.3	23	28
186	03	MED	* DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17	.4112	2.9	11	23
187	03	MED	DENTAL EXTRACTIONS & RESTORATIONS	.4579	2.1	8	16
188	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 WITH CC	.9575	5.1	27	29
189	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	.4872	3.0	15	27
190	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17	.7933	4.2	19	28
191	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES WITH CC.	5.3135	17.8	40	42
192	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	2.4801	11.7	34	36
193	07	SURG	BILIARY TRACT PROC W CC EXCEPT ONLY TOT CHOLECYST W OR W/O C.D.E	3.0566	14.8	37	39
194	07	SURG	BILIARY TRACT PROC W/O CC EXCEPT ONLY TOT CHOLECYST W OR W/O C.D.E	1.8809	10.7	33	35
195	07	SURG	TOTAL CHOLECYSTECTOMY W C.D.E. WITH CC	2.3363	12.1	32	36
196	07	SURG	TOTAL CHOLECYSTECTOMY W C.D.E. W/O CC	1.5628	9.3	21	31
197	07	SURG	TOTAL CHOLECYSTECTOMY W/O C.D.E. WITH CC	1.7757	9.2	26	33
198	07	SURG	TOTAL CHOLECYSTECTOMY W/O C.D.E. W/O CC	1.0456	6.5	15	22
199	07	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.2894	12.5	34	36
200	07	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY	2.6844	9.6	32	34
201	07	SURG	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	2.4875	9.0	31	33
202	07	MED	CIRRHOSIS & ALCOHOLIC HEPATITIS	1.2400	7.4	29	31
203	07	MED	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.0904	6.6	29	31
204	07	MED	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.0266	6.1	24	30
205	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA WITH CC	1.2386	6.8	29	31
206	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	.6406	4.0	23	28
207	07	MED	DISORDERS OF THE BILIARY TRACT WITH CC	.9574	5.7	24	30
208	07	MED	DISORDERS OF THE BILIARY TRACT W/O CC	.5798	3.7	15	28
209	08	SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES	2.3829	11.9	27	36
210	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 WITH CC	2.1237	13.2	35	37

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TABLE 5

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				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
211	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC	1.5418	10.7	26	35
212	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	1.4611	7.3	29	31
213	08	SURG	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS	1.7667	10.2	32	34
214	08	SURG	BACK & NECK PROCEDURES WITH CC	2.0618	12.0	34	36
215	08	SURG	BACK & NECK PROCEDURES W/O CC	1.3053	8.4	24	32
216	08	SURG	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	1.6331	8.5	30	32
217	08	SURG	WND DEBRID & SKN GRFT EXCEPT HAND,FOR MUSCSKELET & CONN TISS DIS	2.9985	13.9	36	38
218	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 WITH CC	1.5637	8.7	31	33
219	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W/O CC	.9848	5.6	20	30
220	08	SURG *	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE 0-17	.9242	5.3	26	29
221	08	SURG	KNEE PROCEDURES WITH CC	1.5164	6.5	28	30
222	08	SURG	KNEE PROCEDURES W/O CC	.8259	3.5	20	27
223	08	SURG	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC	1.0621	4.8	21	29
224	08	SURG	SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC	.6378	2.9	11	20
225	08	SURG	FOOT PROCEDURES	.6972	3.2	16	27
226	08	SURG	SOFT TISSUE PROCEDURES WITH CC	1.3916	6.7	29	31
227	08	SURG	SOFT TISSUE PROCEDURES W/O CC	.6656	3.2	15	27
228	08	SURG	MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC	.8098	3.0	14	27
229	08	SURG	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	.5153	2.0	8	16
230	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR	.8502	4.3	25	28
231	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR	.8773	3.6	23	28
232	08	SURG	ARTHROSCOPY	.9593	3.3	25	27
233	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC WITH CC	1.6745	8.8	31	33
234	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC	.8595	4.6	22	29
235	08	MED	FRACTURES OF FEMUR	1.1956	8.3	30	32
236	08	MED	FRACTURES OF HIP & PELVIS	.8869	7.1	29	31
237	08	MED	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	.5724	4.7	21	29
238	08	MED	OSTEOMYELITIS	1.6503	10.8	33	35
239	08	MED	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY	.9787	7.6	30	32
240	08	MED	CONNECTIVE TISSUE DISORDERS WITH CC	1.1186	7.3	29	31
241	08	MED	CONNECTIVE TISSUE DISORDERS W/O CC	.6354	5.1	21	29
242	08	MED	SEPTIC ARTHRITIS	1.3247	8.5	31	33
243	08	MED	MEDICAL BACK PROBLEMS	.6560	5.1	26	29
244	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES WITH CC	.7181	5.5	26	30
245	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	.5214	4.2	18	28

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					RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
246	08	MED		NON-SPECIFIC ARTHROPATHIES	.5672	4.5	18	29
247	08	MED		SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE	.5365	3.8	18	28
248	08	MED		TENDONITIS, MYOSITIS & BURSITIS	.6176	4.4	20	28
249	08	MED		AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	.6678	4.4	26	28
250	08	MED		FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 WITH CC	.6679	4.4	24	28
251	08	MED		FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC	.4203	2.5	11	24
252	08	MED	*	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17	.3496	1.8	7	15
253	08	MED		FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 WITH CC	.7831	6.0	28	30
254	08	MED		FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC	.4426	3.7	18	28
255	08	MED	*	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17	.4638	2.9	16	27
256	08	MED		OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES	.6419	4.0	20	28
257	09	SURG		TOTAL MASTECTOMY FOR MALIGNANCY WITH CC	.9893	6.0	17	29
258	09	SURG		TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	.7915	4.8	12	20
259	09	SURG		SUBTOTAL MASTECTOMY FOR MALIGNANCY WITH CC	.9873	5.0	27	29
260	09	SURG		SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	.6023	2.9	11	21
261	09	SURG		BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION	.6377	2.6	9	17
262	09	SURG		BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	.4375	1.9	7	12
263	09	SURG		SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS WITH CC	2.7018	15.7	38	40
264	09	SURG		SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC	1.5881	10.6	33	35
265	09	SURG		SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC	1.4303	6.9	29	31
266	09	SURG		SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O CC	.6895	3.3	19	27
267	09	SURG		PERIANAL & PILONIDAL PROCEDURES	.6068	3.1	16	27
268	09	SURG		SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES	.6173	2.5	13	27
269	09			OTHER SKIN, SUBCUT TISS & BREAST PROCEDURE WITH CC	1.6854	8.1	30	32
270	09			OTHER SKIN, SUBCUT TISS & BREAST PROCEDURE W/O CC	.6966	3.4	19	27
271	09	MED		SKIN ULCERS	1.2174	8.8	31	33
272	09	MED		MAJOR SKIN DISORDERS WITH CC	1.0366	7.4	29	31
273	09	MED		MAJOR SKIN DISORDERS W/O CC	.7079	5.9	26	30
274	09	MED		MALIGNANT BREAST DISORDERS WITH CC	1.0508	6.4	28	30
275	09	MED		MALIGNANT BREAST DISORDERS W/O CC	.5735	3.4	21	27
276	09	MED		NON-MALIGANT BREAST DISORDERS	.5320	3.1	17	27
277	09	MED		CELLULITIS AGE >17 WITH CC	.9624	7.3	25	31
278	09	MED		CELLULITIS AGE >17 W/O CC	.6829	5.8	18	30
279	09	MED	*	CELLULITIS AGE 0-17	.7367	4.2	13	24
280	09	MED		TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 WITH CC	.6403	4.6	23	29

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					RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
281	09	MED		TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC	.4249	3.3	15	27
282	09	MED	*	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17	.3424	2.2	9	19
283	09	MED		MINOR SKIN DISORDERS WITH CC	.7760	5.5	26	30
284	09	MED		MINOR SKIN DISORDERS W/O CC	.4839	3.7	18	28
285	10	SURG		AMPUTAT OF LOWER LIMB FOR ENDOCRINE,NUTRIT,& METABOL DISORDERS	3.0283	17.5	40	42
286	10	SURG		ADRENAL & PITUITARY PROCEDURES	2.5944	11.3	33	35
287	10	SURG		SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS	2.2201	13.7	36	38
288	10	SURG		O.R. PROCEDURES FOR OBESITY	2.0873	7.9	30	32
289	10	SURG		PARATHYROID PROCEDURES	1.0952	5.1	20	29
290	10	SURG		THYROID PROCEDURES	.8046	3.7	12	23
291	10	SURG		THYROGLOSSAL PROCEDURES	.5103	2.2	7	14
292	10	SURG		OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC WITH CC	2.7120	12.3	34	36
293	10	SURG		OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.1954	6.6	29	31
294	10	MED		DIABETES AGE >35	.7587	6.1	22	30
295	10	MED		DIABETES AGE 0-35	.7713	4.6	20	29
296	10	MED		NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 WITH CC	.9396	6.1	28	30
297	10	MED		NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC	.5728	4.4	17	28
298	10	MED		NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17	.6434	3.3	15	27
299	10	MED		INBORN ERRORS OF METABOLISM	.8451	4.8	27	29
300	10	MED		ENDOCRINE DISORDERS WITH CC	1.1179	7.2	29	31
301	10	MED		ENDOCRINE DISORDERS W/O CC	.6420	4.6	21	29
302	11	SURG		KIDNEY TRANSPLANT	3.7012	15.8	38	40
303	11	SURG		KIDNEY,URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM	2.7491	12.6	35	37
304	11	SURG		KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL WITH CC	2.4603	10.9	33	35
305	11	SURG		KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC	1.3334	6.2	28	30
306	11	SURG		PROSTATECTOMY WITH CC	1.4321	8.1	30	32
307	11	SURG		PROSTATECTOMY W/O CC	.8634	5.2	17	29
308	11	SURG		MINOR BLADDER PROCEDURES WITH CC	1.5480	7.3	29	31
309	11	SURG		MINOR BLADDER PROCEDURES W/O CC	.8343	4.0	20	28
310	11	SURG		TRANSURETHRAL PROCEDURES WITH CC	.9112	4.6	22	29
311	11	SURG		TRANSURETHRAL PROCEDURES W/O CC	.5434	2.7	10	20
312	11	SURG		URETHRAL PROCEDURES, AGE >17 WITH CC	.8282	4.2	22	28
313	11	SURG		URETHRAL PROCEDURES, AGE >17 W/O CC	.5054	2.6	11	23
314	11	SURG	*	URETHRAL PROCEDURES, AGE 0-17	.4323	2.3	12	26
315	11	SURG		OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.4142	8.5	31	33

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					RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
316	11	MED		RENAL FAILURE	1.2811	6.4	28	30
317	11	MED		ADMIT FOR RENAL DIALYSIS	.3494	2.0	9	19
318	11	MED		KIDNEY & URINARY TRACT NEOPLASMS WITH CC	1.0683	6.2	28	30
319	11	MED		KIDNEY & URINARY TRACT NEOPLASMS W/O CC	.5777	3.0	17	27
320	11	MED		KIDNEY & URINARY TRACT INFECTIONS AGE >17 WITH CC	1.0427	7.0	26	31
321	11	MED		KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	.7247	5.5	18	29
322	11	MED		KIDNEY & URINARY TRACT INFECTIONS AGE 0-17	.7487	5.2	18	29
323	11	MED		URINARY STONES WITH CC, &/OR ESW LITHOTRIPSY	.7915	3.1	15	27
324	11	MED		URINARY STONES W/O CC	.4034	2.3	9	17
325	11	MED		KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 WITH CC	.6833	4.6	21	29
326	11	MED		KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC	.4357	3.1	13	26
327	11	MED	*	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17	.5511	3.1	15	27
328	11	MED		URETHRAL STRICTURE AGE >17 WITH CC	.6200	3.9	17	28
329	11	MED		URETHRAL STRICTURE AGE >17 W/O CC	.4227	2.5	10	21
330	11	MED	*	URETHRAL STRICTURE AGE 0-17	.2788	1.6	5	9
331	11	MED		OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 WITH CC	.9143	5.4	27	29
332	11	MED		OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC	.5636	3.5	18	27
333	11	MED		OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17	.6645	3.5	21	27
334	12	SURG		MAJOR MALE PELVIC PROCEDURES W CC	1.8513	11.1	27	35
335	12	SURG		MAJOR MALE PELVIC PROCEDURES W/O CC	1.3617	8.9	18	26
336	12	SURG		TRANSURETHRAL PROSTATECTOMY WITH CC	1.0162	6.2	18	30
337	12	SURG		TRANSURETHRAL PROSTATECTOMY W/O CC	.6950	4.5	11	16
338	12	SURG		TESTES PROCEDURES, FOR MALIGNANCY	.7524	3.2	22	27
339	12	SURG		TESTES PROCEDURES, NON-MALIGNANCY AGE >17	.5867	2.7	13	27
340	12	SURG	*	TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17	.4335	2.4	7	13
341	12	SURG		PENIS PROCEDURES	.9828	4.0	15	28
342	12	SURG		CIRCUMCISION AGE >17	.4489	2.1	9	20
343	12	SURG	*	CIRCUMCISION AGE 0-17	.3788	1.7	4	6
344	12	SURG		OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY	1.0815	5.5	23	30
345	12	SURG		OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY	.7907	4.1	21	28
346	12	MED		MALIGNANCY, MALE REPRODUCTIVE SYSTEM, WITH CC	.9178	5.6	28	30
347	12	MED		MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	.4833	2.6	13	27
348	12	MED		BENIGN PROSTATIC HYPERTROPHY WITH CC	.6717	3.8	21	28
349	12	MED		BENIGN PROSTATIC HYPERTROPHY W/O CC	.3870	2.1	9	17
350	12	MED		INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	.6780	5.0	16	29

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NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.
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 MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
351	12	MED	* STERILIZATION, MALE	.3333	1.8	3	5
352	12	MED	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	.5360	3.0	15	27
353	13	SURG	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY	2.2704	12.6	35	37
354	13	SURG	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG WITH CC	1.4985	8.7	23	33
355	13	SURG	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC	.9453	6.3	12	17
356	13	SURG	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	.7596	5.3	13	20
357	13	SURG	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIG	2.2107	11.2	33	35
358	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY WITH CC	1.2466	7.7	19	30
359	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	.8525	5.8	11	15
360	13	SURG	VAGINA, CERVIX & VULVA PROCEDURES	.7439	3.7	21	28
361	13	SURG	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	.7185	2.8	16	27
362	13	SURG	ENDOSCOPIC TUBAL INTERRUPTION	.3701	1.6	5	10
363	13	SURG	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	.6828	3.5	17	28
364	13	SURG	D&C, CONIZATION EXCEPT FOR MALIGNANCY	.4411	2.2	9	18
365	13	SURG	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.9412	9.6	32	34
366	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM WITH CC	1.1233	6.3	28	30
367	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	.5110	3.0	16	27
368	13	MED	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	.8683	5.8	23	30
369	13	MED	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	.5058	3.3	17	27
370	14	SURG	CESAREAN SECTION W CC	.9456	6.3	19	30
371	14	SURG	CESAREAN SECTION W/O CC	.7099	4.8	10	14
372	14	MED	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	.4442	3.1	11	20
373	14	MED	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	.3099	2.3	6	9
374	14	SURG	VAGINAL DELIVERY W STERILIZATION &/OR D&C	.5542	2.9	7	11
375	14	SURG	* VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	.6817	4.4	16	28
376	14	MED	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE	.3887	2.8	11	21
377	14	SURG	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE	.6574	3.1	14	27
378	14	MED	ECTOPIC PREGNANCY	.7938	4.5	12	20
379	14	MED	THREATENED ABORTION	.2956	2.1	9	18
380	14	MED	ABORTION W/O D&C	.2531	1.6	6	11
381	14	SURG	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	.3872	1.7	6	11
382	14	MED	FALSE LABOR	.1242	1.3	3	5
383	14	MED	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS	.4416	3.6	18	28
384	14	MED	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	.3200	2.3	12	26
385	15		* NEONATES, DIED OR TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	1.2232	1.8	15	26

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NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.
NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

					RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD (A)	*** (B)
386	15		*	EXTREME IMMATURITY OR RESPIRATORY DISTRESS SYNDROME, NEONATE	3.6480	17.9	39	42
387	15		*	PREMATURITY W MAJOR PROBLEMS	1.8267	13.3	34	37
388	15		*	PREMATURITY W/O MAJOR PROBLEMS	1.1571	8.6	30	33
389	15			FULL TERM NEONATE W MAJOR PROBLEMS	1.7896	7.0	29	31
390	15			NEONATE W OTHER SIGNIFICANT PROBLEMS	1.1117	5.4	27	29
391	15		*	NORMAL NEWBORN	.2218	3.1	7	11
392	16	SURG		SPLENECTOMY AGE >17	3.6972	12.9	35	37
393	16	SURG	*	SPLENECTOMY AGE 0-17	1.5206	9.1	30	33
394	16	SURG		OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS	1.4618	5.5	28	30
395	16	MED		RED BLOOD CELL DISORDERS AGE >17	.7427	4.5	23	29
396	16	MED		RED BLOOD CELL DISORDERS AGE 0-17	.4539	1.8	10	24
397	16	MED		COAGULATION DISORDERS	1.0426	5.6	28	30
398	16	MED		RETICULOENDOTHELIAL & IMMUNITY DISORDERS WITH CC	1.2472	6.6	29	31
399	16	MED		RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	.6899	4.1	21	28
400	17	SURG		LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	2.7513	11.1	33	35
401	17	SURG		LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	2.1688	10.3	32	34
402	17	SURG		LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC	.9001	4.3	26	28
403	17	MED		LYMPHOMA & NON-ACUTE LEUKEMIA W CC	1.5824	8.2	30	32
404	17	MED		LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	.8024	4.8	27	29
405	17		*	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17	1.0407	4.9	26	29
406	17	SURG		MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC	2.7843	12.7	35	37
407	17	SURG		MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC	1.4537	7.0	29	31
408	17	SURG		MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC	.9274	4.1	24	28
409	17	MED		RADIOTHERAPY	1.0473	6.9	29	31
410	17	MED		CHEMOTHERAPY	.4811	2.6	10	20
411	17	MED		HISTORY OF MALIGNANCY W/O ENDOSCOPY	.4733	2.8	13	27
412	17	MED		HISTORY OF MALIGNANCY W ENDOSCOPY	.4334	2.2	10	21
413	17	MED		OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG WITH CC	1.2412	7.2	29	31
414	17	MED		OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	.7876	4.9	27	29
415	18	SURG		O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	3.5992	15.0	37	39
416	18	MED		SEPTECEMIA AGE >17	1.5896	7.6	30	32
417	18	MED		SEPTECEMIA AGE 0-17	1.0354	5.9	27	30
418	18	MED		POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	1.0188	6.9	29	31
419	18	MED		FEVER OF UNKNOWN ORIGIN AGE >17 WITH CC	.9654	5.9	24	30
420	18	MED		FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	.6760	4.6	17	29

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NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.
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 MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
421	18	MED	VIRAL ILLNESS AGE >17	.6529	4.4	17	28
422	18	MED	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17	.7780	3.5	20	28
423	18	MED	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.6059	8.2	30	32
424	19	SURG	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	2.2865	12.8	35	37
425	19	MED	ACUTE ADJUST REACT & DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION	.6215	4.4	22	28
426	19	MED	DEPRESSIVE NEUROSES	.6286	5.8	28	30
427	19	MED	NEUROSES EXCEPT DEPRESSIVE	.5994	5.3	27	29
428	19	MED	DISORDERS OF PERSONALITY & IMPULSE CONTROL	.7351	6.1	28	30
429	19	MED	ORGANIC DISTURBANCES & MENTAL RETARDATION	.8932	7.3	29	31
430	19	MED	PSYCHOSES	.9089	8.8	31	33
431	19	MED	CHILDHOOD MENTAL DISORDERS	.7028	6.1	28	30
432	19	MED	OTHER MENTAL DISORDER DIAGNOSES	.7004	4.4	26	28
433	20		ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	.4110	3.2	21	27
434	20		ALC/DRUG ABUSE OR DEPENDENCE, DETOX OR OTHER SYMPT TRT WITH CC	.8095	5.9	28	30
435	20		ALC/DRUG ABUSE OR DEPENDENCE, DETOX OR OTHER SYMPT TRT W/O CC	.5738	5.0	27	29
436	20		ALC/DRUG DEPENDENCE W REHABILITATION THERAPY	1.0164	11.2	33	35
437	20		ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY	1.2760	14.4	36	38
438	20		NO LONGER VALID	.0000	.0	0	0
439	21	SURG	SKIN GRAFTS FOR INJURIES	1.7151	7.1	29	31
440	21	SURG	WOUND DEBRIDEMENTS FOR INJURIES	2.4994	10.5	33	35
441	21	SURG	HAND PROCEDURES FOR INJURIES	.7038	2.5	14	26
442	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES WITH CC	1.9165	5.9	28	30
443	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	1.1903	4.2	26	28
444	21	MED	MULTIPLE TRAUMA AGE >17 WITH CC	.7824	5.2	25	29
445	21	MED	MULTIPLE TRAUMA AGE >17 W/O CC	.5207	3.8	17	28
446	21	MED	* MULTIPLE TRAUMA AGE 0-17	.4796	2.4	10	22
447	21	MED	ALLERGIC REACTIONS AGE >17	.4734	2.6	12	24
448	21	MED	* ALLERGIC REACTIONS AGE 0-17	.3470	2.9	9	17
449	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 WITH CC	.8077	4.5	22	28
450	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	.4800	2.9	14	27
451	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17	.4819	2.9	18	27
452	21	MED	COMPLICATIONS OF TREATMENT WITH CC	.9455	4.8	27	29
453	21	MED	COMPLICATIONS OF TREATMENT W/O CC	.5064	3.2	16	27
454	21	MED	OTHER INJURY, POISONING & TOXIC EFF DIAG WITH CC	.8993	4.4	26	28
455	21	MED	OTHER INJURY, POISONING & TOXIC EFF DIAG W/O CC	.4405	2.7	13	27

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				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD *** (A)	(B)
456	22		BURNS, TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	1.5827	4.7	27	29
457	22	MED	EXTENSIVE BURNS W/O O.R. PROCEDURE	2.6766	3.8	26	28
458	22	SURG	NON-EXTENSIVE BURNS W SKIN GRAFT	4.0349	17.1	39	41
459	22	SURG	NON-EXTENSIVE BURNS W WOUND DEBRIDEMENT OR OTHER O.R. PROC	2.0305	10.3	32	34
460	22	MED	NON-EXTENSIVE BURNS W/O O.R. PROCEDURE	1.0193	6.5	28	30
461	23	SURG	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES	.7333	2.4	17	26
462	23	MED	REHABILITATION	1.8085	13.6	36	38
463	23	MED	SIGNS & SYMPTOMS W CC	.7692	5.2	25	29
464	23	MED	SIGNS & SYMPTOMS W/O CC	.4831	3.5	15	27
465	23	MED	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	.3436	1.9	7	13
466	23	MED	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	.5566	2.7	20	27
467	23	MED	OTHER FACTORS INFLUENCING HEALTH STATUS	.4461	3.1	25	27
468			EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	3.3045	12.5	35	37
469		**	PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	.0000	.0	0	0
470		**	UNGROUPABLE	.0000	.0	0	0
471	08	SURG	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY	4.1503	16.9	39	41
472	22	SURG	EXTENSIVE BURNS W O.R. PROCEDURE	12.2265	19.1	41	43
473	17		ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	2.9296	9.0	31	33
474	04		RESPIRATORY SYSTEM DIAGNOSIS WITH TRACHEOSTOMY	12.3838	34.5	57	59
475	04	MED	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	3.1437	8.9	31	33
476			PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	2.2225	14.9	37	39
477			NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.3763	6.3	28	30

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BILLING CODE 4120-01-C

TABLE 6A.—NEW DIAGNOSIS CODES

Diagnosis code	Description	DRG
764.00	"Light-for-dates" without mention of fetal malnutrition, unspecified [weight].	390
764.01	"Light-for-dates" without mention of fetal malnutrition, less than 500 grams.	390
764.02	"Light-for-dates" without mention of fetal malnutrition, 500–749 grams.	390
764.03	"Light-for-dates" without mention of fetal malnutrition, 750–999 grams.	390
764.04	"Light-for-dates" without mention of fetal malnutrition, 1,000–1,249 grams.	390
764.05	"Light-for-dates" without mention of fetal malnutrition, 1,250–1,499 grams.	390
764.06	"Light-for-dates" without mention of fetal malnutrition, 1,500–1,749 grams.	390
764.07	"Light-for-dates" without mention of fetal malnutrition, 1,750–1,999 grams.	390
764.08	"Light-for-dates" without mention of fetal malnutrition, 2,000–2,499 grams.	390
764.09	"Light-for-dates" without mention of fetal malnutrition, 2,500+ grams.	391
764.10	"Light-for-dates" with signs of fetal malnutrition, unspecified [weight].	390
764.11	"Light-for-dates" with signs of fetal malnutrition, less than 500 grams.	389
764.12	"Light-for-dates" with signs of fetal malnutrition, 500–749 grams.	389
764.13	"Light-for-dates" with signs of fetal malnutrition, 750–999 grams.	389
764.14	"Light-for-dates" with signs of fetal malnutrition, 1,000–1,249 grams.	389
764.15	"Light-for-dates" with signs of fetal malnutrition, 1,250–1,499 grams.	389
764.16	"Light-for-dates" with signs of fetal malnutrition, 1,500–1,749 grams.	389
764.17	"Light-for-dates" with signs of fetal malnutrition, 1,750–1,999 grams.	389
764.18	"Light-for-dates" with signs of fetal malnutrition, 2,000–2,499 grams.	389
764.19	"Light-for-dates" with signs of fetal malnutrition, 2,500+ grams.	390
764.20	Fetal malnutrition without mention of "light-for-dates", unspecified [weight].	390
764.21	Fetal malnutrition without mention of "light-for-dates", less than 500 grams.	389
764.22	Fetal malnutrition without mention of "light-for-dates", 500–749 grams.	389
764.23	Fetal malnutrition without mention of "light-for-dates", 750–999 grams.	389
764.24	Fetal malnutrition without mention of "light-for-dates", 1,000–1,249 grams.	389
764.25	Fetal malnutrition without mention of "light-for-dates", 1,250–1,499 grams.	389
764.26	Fetal malnutrition without mention of "light-for-dates", 1,500–1,749 grams.	389
764.27	Fetal malnutrition without mention of "light-for-dates", 1,750–1,999 grams.	389
764.28	Fetal malnutrition without mention of "light-for-dates", 2,000–2,499 grams.	389
764.29	Fetal malnutrition without mention of "light-for-dates", 2,500+ grams.	390
764.90	Fetal growth retardation, unspecified, unspecified [weight].	390
764.91	Fetal growth retardation, unspecified, unless than 500 grams.	390
764.92	Fetal growth retardation, unspecified, 500–749 grams.	390
764.93	Fetal growth retardation, unspecified, 750–999 grams.	390
764.94	Fetal growth retardation, unspecified, 1,000–1,249 grams.	390
764.95	Fetal growth retardation, unspecified, 1,250–1,499 grams.	390
764.96	Fetal growth retardation, unspecified, 1,500–1,749 grams.	390
764.97	Fetal growth retardation, unspecified, 1,750–1,999 grams.	390
764.98	Fetal growth retardation, unspecified, 2,000–2,499 grams.	390
764.99	Fetal growth retardation, unspecified, 2,500+ grams.	391
765.00	Extreme immaturity, unspecified [weight].	387, 388
765.01	Extreme immaturity, less than 500 grams.	386
765.02	Extreme immaturity, 500–749 grams.	386
765.03	Extreme immaturity, 750–999 grams.	386
765.04	Extreme immaturity, 1,000–1,249 grams.	386
765.05	Extreme immaturity, 1,250–1,499 grams.	386
765.06	Extreme immaturity, 1,500–1,749 grams.	387, 388
765.07	Extreme immaturity, 1,750–1,999 grams.	387, 388
765.08	Extreme immaturity, 2,000–2,499 grams.	387, 388
765.09	Extreme immaturity, 2,500+ grams.	470
765.10	Other preterm infants, unspecified [weight].	387, 388
765.11	Other preterm infants, less than 500 grams.	387, 388
765.12	Other preterm infants, 500–749 grams.	387, 388
765.13	Other preterm infants, 750–999 grams.	387, 388
765.14	Other preterm infants, 1,000–1,249 grams.	387, 388
765.15	Other preterm infants, 1,250–1,499 grams.	387, 388
765.16	Other preterm infants, 1,500–1,749 grams.	387, 388
765.17	Other preterm infants, 1,750–1,999 grams.	387, 388
765.18	Other preterm infants, 2,000–2,499 grams.	387, 388
765.19	Other preterm infants, 2,500+ grams.	387, 388

TABLE 6B.—NEW OR REVISED PROCEDURE CODES

Procedure Code	Description	DRG
20.95	Implantation of electromagnetic hearing device.	55
22.11	Closed [endoscopic] [needle] biopsy of nasal sinus.	Non-OR
22.12	Open biopsy of nasal sinus	53, 54
25.01	Closed [needle] biopsy of tongue.	Non-OR
25.02	Open biopsy of tongue Wedge biopsy.	168, 169
26.11	Closed [needle] biopsy of salivary gland or duct.	Non-OR
26.12	Open biopsy of salivary gland or duct.	51
31.43	Closed [endoscopic] biopsy of larynx.	Non-OR
31.44	Closed [endoscopic] biopsy of trachea.	Non-OR
31.45	Open biopsy of larynx or trachea.	55, 76, 77
35.84	Total correction of transposition of great vessels, not elsewhere classified.	108, 109
37.26	Cardiac electrophysiologic stimulation and recording studies.	Non-OR
37.27	Cardiac mapping	Non-OR
37.33	Excision or destruction of other lesion or tissue of heart.	108, 109
37.34	Catheter ablation of lesion or tissues of heart.	108, 112
39.61	Extracorporeal circulation auxiliary to open heart surgery.	Non-OR
39.65	Extracorporeal membrane oxygenation [ECMO].	Non-OR
41.00	Bone marrow transplant, not otherwise specified.	394, 400, 406, 407
41.01	Autologous bone marrow transplant.	394, 400, 406, 407
41.02	Allogeneic bone marrow transplant with purging.	394, 400, 406, 407
41.03	Allogeneic bone marrow transplant without purging.	394, 400, 406, 407
42.24	Closed [endoscopic] biopsy of esophagus.	Non-OR
42.25	Open biopsy of esophagus	63, 154, 155, 156, 400, 406, 407
45.16	Esophagogastroduodenoscopy [EGD] with closed biopsy.	Non-OR
45.23	Colonoscopy	Non-OR
45.24	Flexible sigmoidoscopy	Non-OR
45.42	Endoscopic polypectomy of large intestine.	Non-OR
48.23	Rigid proctosigmoidoscopy	Non-OR

TABLE 6B.—NEW OR REVISED PROCEDURE CODES—Continued

Procedure Code	Description	DRG
48.29	Other diagnostic procedures on rectum, rectosigmoid, and perirectal tissue.	Non-OR
86.22	Excisional debridement of wound, infection, or burn.	7, 8, 40, 41, 63, 76, 77, 120, 170, 171, 201, 217, 263, 264, 265, 266, 287, 315, 365, 394, 440, 459, 472
86.28	Nonexcisional debridement of wound, infection, or burn.	Non-OR
89.17	Polysomnogram	Non-OR
89.18	Other sleep disorder function tests.	Non-OR
89.59	Other nonoperative cardiac and vascular measurements.	Non-OR
93.90	Continuous positive airway pressure [CPAP].	[1] Non-OR
93.92	Other mechanical ventilation	[1] Non-OR
99.71	Therapeutic plasmapheresis	Non-OR
99.72	Therapeutic leukopheresis	Non-OR
99.73	Therapeutic erythrocytapheresis.	Non-OR
99.74	Therapeutic plateletpheresis	Non-OR
99.79	Other [2]	Non-OR
99.88	Therapeutic photopheresis	Non-OR

[1] If coded in addition with 96.04, Insertion of endotracheal tube, case may be assigned to DRG 475.
[2] Other therapeutic apheresis.

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477

Procedure code	Procedure
04.07	Other excision or avulsion of cranial and peripheral nerves.
04.43	Release of carpal tunnel.
08.11	Biopsy of eyelid.
08.20	Removal of lesion of eyelid, not otherwise specified (NOS).
08.21	Excision of chalazion.
08.22	Excision of other minor lesion of eyelid.
08.25	Destruction of lesion of eyelid.
08.33	Repair of blepharoptosis by resection or advancement of levator muscle or aponeurosis.
08.36	Repair of blepharoptosis by other techniques.
08.49	Other repair or entropion or ectropion.
08.52	Blepharorrhaphy.
08.59	Other adjustment of lid position.
08.70	Reconstruction of eyelid, NOS.
08.74	Other reconstruction of eyelid, full-thickness.

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477—Continued

Procedure code	Procedure
08.81	Linear repair of laceration of eyelid or eyebrow.
08.82	Repair of laceration involving lid margin, partial-thickness.
08.83	Other repair of laceration of eyelid, partial-thickness.
08.84	Repair of laceration involving lid margin, full-thickness.
08.85	Other repair of laceration of eyelid, full-thickness.
08.86	Lower eyelid rhytidectomy.
08.87	Upper eyelid rhytidectomy.
08.89	Other eyelid repair.
08.91	Electrosurgical epilation of eyelid.
08.92	Cryosurgical epilation of eyelid.
08.93	Other epilation of eyelid.
08.99	Other operations on eyelids.
09.20	Excision of lacrimal gland, NOS.
09.21	Excision of lesion of lacrimal gland.
10.6	Repair of laceration of conjunctiva.
12.72	Cyclocryotherapy.
13.11	Intracapsular extraction of lens by temporal inferior route.
13.19	Other intracapsular extraction of lens.
13.2	Extracapsular extraction of lens by linear extraction technique.
13.3	Extracapsular extraction of lens by simple aspiration (and irrigation) technique.
13.41	Phacoemulsification and aspiration of cataract.
13.42	Mechanical phacofragmentation and aspiration of cataract by posterior route.
13.43	Mechanical phacofragmentation and other aspiration of cataract.
13.51	Extracapsular extraction of lens by temporal inferior route.
13.59	Other extracapsular extraction of lens.
13.61	Discission of primary membranous cataract.
13.62	Excision of primary membranous cataract.
13.63	Mechanical fragmentation of primary membranous cataract.
13.64	Discission of secondary membrane [after cataract].
13.65	Excision of secondary membrane [after cataract].

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477—Continued

Procedure code	Procedure
13.66	Mechanical fragmentation of secondary membrane [after cataract].
13.69	Other cataract extraction.
13.70	Insertion of pseudophakos, NOS.
13.71	Insertion of intraocular lens prosthesis at time of cataract extraction, one-stage.
13.8	Removal of implanted lens.
13.9	Other operations on lens.
14.71	Removal of vitreous, anterior approach.
14.72	Other removal of vitreous.
14.73	Mechanical vitrectomy by anterior approach.
14.74	Other mechanical vitrectomy.
14.75	Injection of vitreous substitute.
14.79	Other operations on vitreous.
15.13	Resection of one extraocular muscle.
20.01	Myringotomy with insertion of tube.
21.5	Submucous resection of nasal septum.
21.84	Revision rhinoplasty.
21.85	Augmentation rhinoplasty.
21.86	Limited rhinoplasty.
21.87	Other rhinoplasty.
21.88	Other septoplasty.
21.89	Other repair and plastic operations on nose.
21.99	Other operations on nose.
25.1	Excision or destruction of lesion or tissue of tongue.
26.21	Marsupialization of salivary gland cyst.
26.29	Other excision of salivary gland lesion.
26.30	Sialoadenectomy, NOS.
26.31	Partial sialoadenectomy.
26.32	Complete sialoadenectomy.
27.43	Other excision of lesion or tissue of lip.
28.11	Biopsy of tonsils and adenoids.
30.09	Other excision or destruction of lesion or tissue of larynx.
34.3	Excision or destruction of lesion or tissue of mediastinum.
34.4	Excision or destruction of lesion of chest wall.
38.00	Incision of vessel, unspecified site.
39.94	Replacement of vessel-to-vessel cannula.
40.0	Incision of lymphatic structures.
40.11	Biopsy of lymphatic structure.
40.19	Other diagnostic procedures on lymphatic structures.

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477—Continued

Procedure code	Procedure
40.21	Excision of deep cervical lymph node.
40.23	Excision of axillary lymph node.
40.24	Excision of inguinal lymph node.
40.29	Simple excision of other lymphatic structure.
43.42	Local excision of other lesion or tissue of stomach.
43.49	Other destruction of lesion or tissue of stomach.
45.31	Local excision of lesion of duodenum.
45.32	Other destruction of lesion of duodenum.
45.33	Local excision of lesion or tissue of small intestine, except duodenum.
54.34	Other destruction of lesion of small intestine, except duodenum.
45.41	Local excision of lesion or tissue of large intestine.
45.49	Other destruction of lesion of large intestine.
46.43	Other revision of stoma of large intestine.
48.35	Local excision of rectal lesion or tissue.
49.3	Local excision or destruction of other lesion or tissue of anus.
49.44	Destruction of hemorrhoids by cryotherapy.
49.45	Ligation of hemorrhoids.
49.46	Excision of hemorrhoids.
53.00	Unilateral repair of inguinal hernia, NOS.
53.01	Repair of direct inguinal hernia.
53.02	Repair of indirect inguinal hernia.
53.03	Repair of direct inguinal hernia with graft or prosthesis.
53.04	Repair of indirect inguinal hernia with graft or prosthesis.
53.05	Repair of inguinal hernia with graft or prosthesis, NOS.
53.10	Bilateral repair of inguinal hernia, NOS.
53.11	Bilateral repair of direct inguinal hernia.
53.12	Bilateral repair of indirect inguinal hernia.
53.13	Bilateral repair of inguinal hernia, one direct and one indirect.
53.14	Bilateral repair of direct inguinal hernia with graft or prosthesis.
53.15	Bilateral repair of indirect inguinal hernia with graft or prosthesis.

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477—Continued

Procedure code	Procedure
53.16	Bilateral repair of inguinal hernia, one direct and one indirect, with graft or prosthesis.
53.17	Bilateral inguinal hernia repair with graft or prosthesis, NOS.
53.21	Unilateral repair of femoral hernia with graft or prosthesis.
53.29	Other unilateral femoral herniorrhaphy.
53.31	Bilateral repair of femoral hernia with graft or prosthesis.
53.39	Other bilateral femoral herniorrhaphy.
54.21	Laparoscopy.
54.22	Biopsy of abdominal wall or umbilicus.
54.3	Excision or destruction of lesion or tissue of abdominal wall or umbilicus.
56.0	Transurethral removal of obstruction from ureter and renal pelvis.
56.1	Ureteral meatotomy.
56.2	Ureterotomy.
56.39	Other diagnostic procedures on ureter.
57.33	Closed [transurethral] biopsy of bladder.
57.39	Other diagnostic procedures on bladder.
57.49	Other transurethral excision or destruction of lession or tissue of bladder.
57.59	Open excision or destruction of other lesion or tissue of bladder.
57.82	Closure of cystostomy.
58.0	Urethrotomy.
58.1	Urethral meatotomy.
61.2	Excision of hydrocele (of tunica vaginalis).
63.09	Other diagnostic procedues on spermatic cord, epididymis, and vas deferens.
63.1	Excision of varicocele and hydrocele of spermatic cord.
63.2	Excision of cyst of epididymis.
63.3	Excision of other lesion or tissue of spermatic cord and epididymis.
64.0	Circumcision.
64.11	Biopsy of penis.
64.2	Local excision or destruction of lesion of penis.
64.95	Insertion or replacement of non-inflatable internal prosthesis of penis.
64.96	Removal of internal prosthesis of penis.
64.97	Insertion or replacement of inflatable penile prosthesis.

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477—Continued

Procedure code	Procedure
66.21	Bilateral endoscopic ligation and crushing of fallopian tubes.
66.22	Bilateral endoscopic ligation and division of fallopian tubes.
66.29	Other bilateral endoscopic destruction or occlusion of fallopian tubes.
66.31	Other bilateral ligation and crushing of fallopian tubes.
66.32	Other bilateral ligation and division of fallopian tubes.
66.39	Other bilateral destruction or occlusion of fallopian tubes.
66.92	Unilateral destruction or occlusion of fallopian tube.
67.11	Endocervical biopsy.
67.12	Other cervical biopsy.
67.19	Other diagnostic procedures on cervix.
67.2	Conization of cervix.
67.31	Marsupialization of cervical cyst.
67.32	Destruction of lesion of cervix by cauterization.
67.33	Destruction of lesion of cervix by cryosurgery.
67.39	Other excision or destruction of lesion or tissue of cervix.
68.15	Closed biopsy of uterine ligaments.
68.16	Closed biopsy of uterus.
69.01	Dilation and curettage for termination of pregnancy.
69.09	Other dilation and curettage.
69.51	Aspiration curettage of uterus for termination of pregnancy.
69.52	Aspiration curettage following delivery or abortion.
69.95	Incision of cervix.
70.23	Biopsy of cul-de-sac.
70.24	Vaginal biopsy.
70.29	Other diagnostic procedures on vagina and cul-de-sac.
70.31	Hymenectomy.
70.32	Excision or destruction of lesion of cul-de-sac.
70.33	Excision or destruction of lesion of vagina.
70.76	Hymenorrhaphy.
71.11	Biopsy of vulva.
71.19	Other diagnostic procedures on vulva.
71.23	Marsupialization of Bartholin's gland (cyst).
71.3	Other local excision or destruction of vulva and perineum.
71.4	Operations on clitoris.
71.71	Suture of laceration of vulva or perineum.
71.79	Other repair of vulva and perineum.

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477—Continued

Procedure code	Procedure
76.2	Local excision or destruction of lesion of facial bone.
77.41	Biopsy of bone, scapula, clavicle, and thorax [ribs and sternum].
77.51	Bunionectomy with soft tissue correction and osteotomy of the first metatarsal.
77.52	Bunionectomy with soft tissue correction and arthrodesis.
77.53	Other bunionectomy with soft tissue correction.
77.54	Excision of bunionette.
77.59	Other bunionectomy.
77.68	Local excision of lesion or tissue of bone, tarsals and metatarsals.
77.69	Local excision of lesion or tissue of bone, other.
80.26	Arthroscopy of knee.
80.6	Excision of semilunar cartilage of knee.
80.88	Other local excision or destruction of lesion of joint, foot, and toe.
80.98	Other excision of joint, foot, and toe.
81.18	Other fusion of toe.
82.11	Tenotomy of hand.
82.21	Excision of lesion of tendon sheath of hand.

TABLE 6C.—ELECTIVE, DIAGNOSTIC AND OTHER NONEXTENSIVE PROCEDURES UNRELATED TO PRINCIPAL PROCEDURES THAT GROUP TO DRG 477—Continued

Procedure code	Procedure
82.29	Excision of other lesion of soft tissue of hand.
82.41	Suture of tendon sheath of hand.
82.45	Other suture of other tendon of hand.
82.46	Suture of muscle or fascia of hand.
83.03	Bursotomy.
83.21	Biopsy of soft tissue.
83.39	Excision of lesion of other soft tissue.
83.61	Suture of tendon sheath.
85.12	Open biopsy of breast.
85.20	Excision or destruction of breast tissue, NOS.
85.21	Local excision of lesion of breast.
85.23	Subtotal mastectomy.
85.50	Augmentation mammoplasty, NOS.
85.53	Unilateral breast implant.
85.54	Bilateral breast implant.
86.21	Excision of pilonidal cyst or sinus.
86.25	Dermabrasion.
86.60	Free skin graft, NOS.
86.82	Facial rhytidectomy.
86.83	Size reduction plastic operation.
86.84	Relaxation of scar or web contracture of skin.
95.04	Eye examination under anesthesia.

Table 6d.—Additions to the CC Exclusions List

CCs that are added to the list are in Table 6d—Additions to the CC Exclusions List. (Previously, the indented diagnoses were recognized by the GROUPER as valid CCS for the asterisked principal diagnosis but will be excluded and thus ignored by the GROUPER for discharges occurring on or after October 1, 1988.)

Example:

*3488

3240

Diagnosis code 324.0 (Intracranial abscess) [Tuberculous pneumonia confirmed by other methods) was previously recognized by the GROUPER as a CC for principal diagnosis 348.8 (Brain conditions NEC). For discharges occurring on or after October 1, 1988, diagnosis code 3240 is no longer recognized as a CC for the principal diagnosis 348.8.

BILLING CODE 4120-01-M

*01166	1531	1920	01306	3979	*55001	5529	8088	76505
01166	1532	1921	01310	*3952	5528	*5513	8089	76506
*01481	1533	1922	01311	3979	5529	5528	82000	76507
01481	1534	1923	01312	*3959	*55002	5529	82001	76508
*0361	1535	1928	01313	3979	5528	*5518	82002	*76404
0361	1536	1960	01314	*3971	5529	5528	82003	76501
*0363	1537	1961	01315	3979	*55003	5529	82009	76502
0363	1538	1962	01316	*39890	5528	*5519	82010	76503
*03640	1539	1963	0360	3970	5529	5528	82011	76504
03640	1540	1965	0530	3971	*55010	5529	82012	76505
*03641	1541	1966	05472	3979	5528	*55200	82013	76506
03641	1542	1968	0721	3980	5529	5528	82019	76507
*03642	1543	1969	09042	39891	*55011	5529	82020	76508
03642	1548	1970	0942	*39891	5528	*55201	82021	*76405
*03643	1550	1971	11283	40201	5529	5528	82022	76501
03643	1551	1972	1142	40211	*55012	5529	82030	76502
*03681	1552	1973	11501	40291	5528	*55202	82031	76503
03681	1560	1974	11511	5184	5529	5528	82032	76504
*03682	1561	1975	11591	*4290	*55013	5529	8208	76505
03682	1562	1976	*3499	4290	5528	*55203	8209	76506
*0550	1568	1977	01300	*430	5529	5528	82100	76507
0550	1569	1978	01301	436	*55090	5529	82101	76508
*0551	1570	1980	01302	7800	5528	*5521	82110	*76406
0551	1571	1981	01303	*431	5529	5528	82111	76501
*0552	1572	1982	01304	436	*55091	5529	*76400	76502
0552	1573	1983	01305	7800	5528	*55220	76501	76503
*05571	1574	1984	01306	*4320	5529	5528	76502	76504
05571	1578	1985	01310	436	*55092	5529	76503	76505
*05671	1579	1986	01311	7800	5528	*55221	76504	76506
05671	1622	1987	01312	*4321	5529	5528	76505	76507
*1124	1623	19881	01313	436	*55093	5529	76506	76508
1124	1624	19882	01314	7800	5528	*55229	76507	*76407
*1125	1625	19889	01315	*4329	5529	5528	76508	76501
1125	1628	1990	01316	436	*55100	5529	*76401	76502
*11505	1629	*20281	0360	7800	5528	*5523	76501	76503
11515	1630	20241	0530	*4340	5529	5518	76502	76504
11595	1631	*2899	05472	436	*55101	5519	76503	76505
*11515	1638	2880	0721	*4341	5528	5528	76504	76506
11595	1639	2881	09042	436	5529	5529	76505	76507
*1958	1642	*3241	0942	*4349	*55102	*5531	76506	76508
1510	1643	3240	11283	436	5528	5528	76507	*76408
1511	1648	3249	1142	*436	5529	5529	76508	76501
1512	1649	325	11501	4340	*55103	*5920	*76402	76502
1513	1890	*3481	11511	4341	5528	5921	76501	76503
1514	1891	3481	11591	4349	5529	*70583	76502	76504
1515	1892	*3488	*3940	*5171	*5511	6820	76503	76505
1516	1910	3240	3979	5171	5528	*7331	76504	76506
1518	1911	*3489	*3941	*51881	5529	8080	76505	76507
1519	1912	3240	3979	51882	*55120	8082	76506	76508
1520	1913	*34989	*3942	7991	5528	8083	76507	*76409
1521	1914	01300	3979	*51882	5529	80843	76508	76501
1522	1915	01301	*3949	51881	*55121	80849	*76403	76502
1523	1916	01302	3979	7991	5528	80851	76501	76503
1528	1917	01303	*3950	*55000	5529	80852	76502	76504
1529	1918	01304	3979	5528	*55129	80853	76503	76505
1530	1919	01305	*3951	5529	5528	80859	76504	76506

76507 *76416 76502 76504 76506 76508 76501 76503 76505
76508 76501 76503 76505 76507 *76501 76502 76504 76506
*76410 76502 76504 76506 76508 76501 76503 76505 76507
76501 76503 76505 76507 *76495 76502 76504 76506 76508
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76503 76505 76507 *76429 76502 76504 76506 76508 76501
76504 76506 76508 76501 76503 76505 76507 *76514 76502
76505 76507 *76423 76502 76504 76506 76508 76501 76503
76506 76508 76501 76503 76505 76507 *76508 76502 76504
76507 *76417 76502 76504 76506 76508 76501 76503 76505
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76501 76503 76505 76507 *76496 76502 76504 76506 76508
76502 76504 76506 76508 76501 76503 76505 76507 *7679
76503 76505 76507 *76490 76502 76504 76506 76508 76501
76504 76506 76508 76501 76503 76505 76507 *76515 76502
76505 76507 *76424 76502 76504 76506 76508 76501 76503
76506 76508 76501 76503 76505 76507 *76509 76502 76504
76507 *76418 76502 76504 76506 76508 76501 76503 76505
76508 76501 76503 76505 76507 *76503 76502 76504 76506
*76412 76502 76504 76506 76508 76501 76503 76505 76507
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95206 95207 95208 95202 95218 9524 95200 95204 431
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436	436	436	436	436	436	436	436	436
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436	436	436	436	436	436	436	436	436
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*85102	*85112	*85122	*85132	*85142	*85152	*85162	*85172	*85182
430	430	430	430	430	430	430	430	430
431	431	431	431	431	431	431	431	431
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7800	7800	7800	7800	7800	7800	7800	7800	7800
*85103	*85113	*85123	*85133	*85143	*85153	*85163	*85173	*85183
430	430	430	430	430	430	430	430	430
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*85105	*85115	*85125	*85135	*85145	*85155	*85165	*85175	*85185
430	430	430	430	430	430	430	430	430
431	431	431	431	431	431	431	431	431
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436	436	436	436	436	436	436	436	436
7800	7800	7800	7800	7800	7800	7800	7800	7800
*85106	*85116	*85126	*85136	*85146	*85156	*85166	*85176	*85186
430	430	430	430	430	430	430	430	430
431	431	431	431	431	431	431	431	431
4320	4320	4320	4320	4320	4320	4320	4320	4320
4321	4321	4321	4321	4321	4321	4321	4321	4321
436	436	436	436	436	436	436	436	436
7800	7800	7800	7800	7800	7800	7800	7800	7800
*85109	*85119	*85129	*85139	*85149	*85159	*85169	*85179	*85189

430	430	430	430	7800	7800	7800	7800	7800
431	431	431	431	*85230	*85240	*85250	*85300	*85310
4320	4320	4320	4320	430	430	430	430	430
4321	4321	4321	4321	431	431	431	431	431
436	436	436	436	4320	4320	4320	4320	4320
7800	7800	7800	7800	4321	4321	4321	4321	4321
*85190	*85200	*85210	*85220	436	436	436	436	436
430	430	430	85220	7800	7800	7800	7800	7800
431	431	431	*85221	*85231	*85241	*85251	*85301	*85311
4320	4320	4320	430	430	430	430	430	430
4321	4321	4321	431	431	431	431	431	431
436	436	436	4320	4320	4320	4320	4320	4320
7800	7800	7800	4321	4321	4321	4321	4321	4321
*85191	*85201	*85211	436	436	436	436	436	436
430	430	430	7800	7800	7800	7800	7800	7800
431	431	431	*85222	*85232	*85242	*85252	*85302	*85312
4320	4320	4320	430	430	430	430	430	430
4321	4321	4321	431	431	431	431	431	431
436	436	436	4320	4320	4320	4320	4320	4320
7800	7800	7800	4321	4321	4321	4321	4321	4321
*85192	*85202	*85212	436	436	436	436	436	436
430	430	430	7800	7800	7800	7800	7800	7800
431	431	431	*85223	*85233	*85243	*85253	*85303	*85313
4320	4320	4320	430	430	430	430	430	430
4321	4321	4321	431	431	431	431	431	431
436	436	436	4320	4320	4320	4320	4320	4320
7800	7800	7800	4321	4321	4321	4321	4321	4321
*85193	*85203	*85213	436	436	436	436	436	436
430	430	430	7800	7800	7800	7800	7800	7800
431	431	431	*85224	*85234	*85244	*85254	*85304	*85314
4320	4320	4320	430	430	430	430	430	430
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436	436	436	4320	4320	4320	4320	4320	4320
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*85194	*85204	*85214	436	436	436	436	436	436
430	430	430	7800	7800	7800	7800	7800	7800
431	431	431	*85225	*85235	*85245	*85255	*85305	*85315
4320	4320	4320	430	430	430	430	430	430
4321	4321	4321	431	431	431	431	431	431
436	436	436	4320	4320	4320	4320	4320	4320
7800	7800	7800	4321	4321	4321	4321	4321	4321
*85195	*85205	*85215	436	436	436	436	436	436
430	430	430	7800	7800	7800	7800	7800	7800
431	431	431	*85226	*85236	*85246	*85256	*85306	*85316
4320	4320	4320	430	430	430	430	430	430
4321	4321	4321	431	431	431	431	431	431
436	436	436	4320	4320	4320	4320	4320	4320
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*85196	*85206	*85216	436	436	436	436	436	436
430	430	430	7800	7800	7800	7800	7800	7800
431	431	431	*85229	*85239	*85249	*85259	*85309	*85319
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436	436	436	4320	4320	4320	4320	4320	4320
7800	7800	7800	4321	4321	4321	4321	4321	4321
*85199	*85209	*85219	436	436	436	436	436	436

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*85400	*85410	*8739	8069	9528
430	430	8739	*95201	9529
431	431	*9051	8068	
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7800	7800	95203	8069	
*85401	*85411	95204	*95203	
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430	430	95212	8069	
431	431	95213	*95206	
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4321	4321	95215	8069	
436	436	95216	*95207	
7800	7800	95217	8068	
*85403	*85413	95218	8069	
430	430	95219	*95208	
431	431	9522	8068	
4320	4320	9523	8069	
4321	4321	9524	*95209	
436	436	9528	8068	
7800	7800	9529	8069	
*85404	*85414	*92611	*9528	
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7800	7800	95205	95201	
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436	436	95211	95207	
7800	7800	95212	95208	
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431	431	95215	95211	
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436	436	95218	95214	
7800	7800	95219	95215	
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4320	4320	9528	95219	
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436	436	*95200	9523	

BILLING CODE 4120-01-C

Table 6e—Deletions From the CC Exclusions List

CCs that are deleted from the list are in Table 6e—Deletions from the CC Exclusions List. (Previously, the indented diagnoses were not recognized by the GROUPER as valid CCs for the asterisked principal diagnosis but will be recognized as valid CCs for discharges occurring on or after October 1, 1988.)

Example:

*01100
494
496

Diagnosis codes 494 (Bronchiectasis) and 496 (Chronic Obstructive Pulmonary Disease) were previously not recognized by the GROUPER as CCs for principal diagnosis 011.00 (Tuberculosis of lung, infiltrative, unspecified documentation). For discharges occurring on or after October 1, 1988, diagnosis codes 494 and 496 will be recognized as CCs for the principal diagnosis 011.00.

BILLING CODE 4120-01-M

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TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
001	25329	19.2277	6	9	14	23	38
002	5247	19.5948	4	8	13	24	41
003	7	19.1429	1	7	16	23	24
004	4625	17.1762	4	7	13	21	35
005	49433	8.2420	3	4	6	10	15
006	2403	2.8577	1	1	2	3	5
007	5345	23.4047	2	6	12	25	52
008	4704	5.4917	1	2	3	6	11
009	2133	11.6606	2	4	8	13	22
010	17721	11.7036	2	4	8	15	24
011	5454	7.5994	1	3	5	9	16
012	27345	10.6930	2	4	7	12	19
013	5597	10.0668	3	5	8	12	18
014	321584	10.8247	3	5	8	13	21
015	156828	5.6459	2	3	4	7	10
016	14434	9.3384	2	4	7	11	17
017	7006	6.5074	2	3	5	7	11
018	12355	9.4988	2	4	7	11	18
019	12480	6.1090	1	2	5	8	12
020	5978	11.7556	2	5	9	15	24
021	812	9.9741	3	4	7	13	19
022	13465	5.8789	2	3	5	7	11
023	4440	6.9410	1	2	5	8	14
024	45544	7.6544	2	3	5	9	15
025	30010	4.8032	1	2	4	6	9
026	46	4.8696	1	1	3	5	11
027	2522	9.6122	1	2	5	12	23
028	6332	9.6270	1	3	6	12	20
029	4958	5.2691	1	2	4	7	12
030	1	1.0000	1	1	1	1	1
031	4485	6.5115	1	2	4	8	12
032	5376	3.9038	1	2	3	5	8
034	11567	9.5162	2	4	6	11	19
035	5912	5.5940	1	2	4	7	11
036	20865	3.4337	1	2	3	4	6
037	3207	4.6289	1	2	3	5	9
038	1576	2.8756	1	1	2	3	5
039	36756	2.0577	1	1	2	2	3
040	6042	2.8929	1	1	2	3	6
041	1	1.0000	1	1	1	1	1
042	23928	3.1296	1	2	2	4	6
043	326	5.6319	1	2	4	5	8
044	2424	7.0120	3	4	6	9	13
045	3687	4.4337	1	2	3	6	8
046	3467	6.1246	1	2	4	8	12
047	3695	3.6111	1	1	2	5	8
049	5958	16.0495	4	8	13	19	30
050	5586	3.2642	1	2	3	4	6
051	828	3.0785	1	1	2	3	6
052	137	4.2847	1	2	3	5	9
053	9584	3.3463	1	1	2	3	7

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
054	3	5.6667	4	4	5	8	8
055	8979	2.6191	1	1	1	2	5
056	1740	2.4184	1	1	2	3	5
057	782	6.4182	1	2	3	7	14
058	1	2.0000	2	2	2	2	2
059	366	2.0902	1	1	1	2	4
060	1	3.0000	3	3	3	3	3
061	370	5.7162	1	1	2	6	14
062	3	6.3333	1	1	3	15	15
063	4412	8.0249	1	2	5	9	17
064	6509	8.8536	1	2	5	11	20
065	31957	4.2223	2	2	3	5	8
066	10551	4.1719	1	2	3	5	7
067	459	6.4619	2	3	5	8	12
068	12434	6.4945	2	3	5	8	12
069	5978	4.8337	2	3	4	6	9
070	29	4.2414	1	2	3	6	7
071	119	6.4034	2	2	4	7	10
072	816	5.0956	1	2	3	6	9
073	9335	5.9875	1	2	4	7	12
074	1	1.0000	1	1	1	1	1
075	29757	15.3040	6	8	12	18	28
076	11002	13.3815	2	5	10	17	27
077	2605	6.4952	1	2	4	9	14
078	28984	10.8142	4	7	10	13	18
079	85845	13.0629	4	6	10	16	24
080	20377	9.7503	3	5	8	12	17
081	5	6.6000	1	1	5	7	16
082	91280	9.6726	2	4	7	12	20
083	6849	8.8258	2	4	7	11	17
084	2941	5.5172	2	3	4	7	10
085	15165	9.3068	2	4	7	12	18
086	3190	6.3749	2	3	5	8	12
087	47137	8.3414	1	4	6	10	16
088	124868	8.1612	3	4	6	10	15
089	263402	9.5163	3	5	8	12	17
090	96970	7.1951	3	4	6	9	12
091	47	5.1702	2	3	4	7	10
092	10028	9.2849	3	4	7	12	18
093	3317	6.8869	2	3	5	9	13
094	8330	10.0190	3	5	8	12	19
095	1925	6.3709	2	3	5	8	12
096	186394	7.5181	3	4	6	9	13
097	53522	5.7106	2	3	5	7	10
098	17	4.5294	1	3	4	6	7
099	23844	5.4333	2	2	4	7	10
100	13026	3.5125	1	2	3	4	6
101	18474	7.4485	2	3	6	9	14
102	8061	5.4672	1	2	4	7	10
103	47	43.4681	13	19	30	44	122
104	9459	22.0792	10	13	18	26	39

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
105	10161	16.8540	8	10	13	19	30
106	53944	16.8970	9	11	14	19	27
107	39401	13.1811	7	9	10	14	21
108	1746	16.7709	2	8	13	21	33
109	9987	12.2587	1	4	9	16	26
110	61599	16.7861	6	9	13	20	31
111	20953	10.2816	5	7	9	12	16
112	82473	7.9777	2	3	6	10	16
113	33075	19.3258	6	9	14	23	36
114	8750	14.1126	3	6	11	18	28
115	7069	15.3607	6	9	13	19	27
116	56434	8.2242	3	4	7	10	15
117	4019	6.6163	2	3	4	8	13
118	8230	3.9887	1	2	3	4	8
119	4420	6.4597	1	2	4	7	14
120	19636	17.6634	3	6	12	22	36
121	132941	11.0133	4	7	10	13	18
122	130066	8.1824	2	5	8	10	13
123	68963	5.5977	1	1	3	7	14
124	73831	6.3658	1	2	5	8	13
125	102216	3.2186	1	2	2	4	7
126	3443	22.5321	5	11	20	31	43
127	510324	8.2170	3	4	6	10	15
128	35137	9.2010	4	6	8	11	14
129	8353	5.8719	1	1	2	7	14
130	56711	8.1413	2	3	7	10	15
131	34209	5.8984	1	2	5	8	11
132	20940	6.0324	2	3	5	7	11
133	9230	4.5930	1	2	4	5	8
134	40176	5.7260	2	3	4	7	10
135	7356	7.1767	2	3	5	9	14
136	2424	4.9922	1	2	4	6	8
138	157843	6.3931	2	3	5	8	12
139	85064	4.4553	1	2	4	6	8
140	373528	5.0035	2	3	4	6	9
141	64694	5.9560	2	3	5	7	11
142	42100	4.3111	1	2	3	5	8
143	88303	3.7171	1	2	3	5	7
144	44617	8.0890	2	4	6	10	16
145	9516	4.8851	1	2	4	6	9
146	17754	18.5319	9	11	15	21	32
147	5752	12.3381	7	9	11	14	18
148	104184	17.6789	8	10	14	20	31
149	31973	11.2711	7	8	10	13	17
150	15454	15.4338	6	9	12	18	27
151	7553	9.9155	5	7	9	12	16
152	6679	10.3201	3	6	8	12	19
153	4503	7.8277	3	5	8	10	12
154	43806	17.7071	5	9	13	21	34
155	11126	10.2766	4	6	9	12	18
156	4	4.5000	1	1	1	8	8

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
157	23374	7.5480	2	3	6	9	14
158	24655	4.0349	1	2	3	5	8
159	12096	7.4747	2	4	6	9	14
160	16867	4.4600	2	2	4	6	8
161	31425	5.1492	1	2	4	6	10
162	55766	2.9848	1	2	3	4	5
163	16	6.1250	1	3	5	7	8
164	3863	13.2827	6	8	11	15	22
165	3084	8.6877	5	6	8	10	13
166	2276	8.8352	3	5	7	10	15
167	2973	5.0750	3	3	5	6	8
168	4249	9.5700	1	2	5	12	22
169	5100	3.8037	1	1	2	4	8
170	11626	16.3211	3	7	12	20	32
171	3022	9.1181	2	4	7	11	17
172	31197	10.5325	2	4	7	13	22
173	7080	6.3517	1	2	4	8	13
174	122648	7.3642	2	4	6	9	13
175	41742	5.1376	2	3	4	6	9
176	11725	8.0206	3	4	6	10	15
177	17848	6.6538	3	4	5	8	12
178	10678	4.9852	2	3	4	6	9
179	7341	9.6762	3	5	7	12	18
180	50932	7.9655	2	4	6	10	15
181	29543	5.1367	2	3	4	6	9
182	220655	6.4852	2	3	5	8	12
183	107799	4.6684	2	2	4	6	8
184	58	4.5172	1	2	2	5	8
185	5090	6.7277	1	2	5	8	14
186	3	9.3333	4	4	9	15	15
187	2335	3.0540	1	1	2	3	6
188	33036	7.4828	2	3	5	9	15
189	14245	4.2717	1	2	3	5	9
190	188	6.3511	2	3	4	7	11
191	5809	21.4355	8	11	17	26	40
192	2744	22.7336	6	10	15	27	47
193	8749	18.1870	8	11	15	22	32
194	2714	12.5733	5	8	11	16	21
195	23660	14.2826	7	9	12	16	23
196	5076	10.3869	6	7	9	12	16
197	55785	11.2320	5	7	9	13	19
198	44404	7.1995	4	5	6	8	11
199	3505	15.5512	5	8	13	20	29
200	2173	13.9742	2	6	11	18	29
201	4376	13.1412	2	5	10	17	27
202	15097	10.2601	2	5	8	13	20
203	30900	9.6514	2	4	7	12	20
204	33091	8.0349	3	4	6	10	15
205	18568	9.6658	2	4	7	12	19
206	4549	5.7265	1	2	4	7	12
207	34559	7.5178	2	4	6	9	14

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
208	19449	4.7088	1	2	4	6	9
209	185439	13.3208	8	9	12	15	20
210	79658	16.0924	7	10	13	18	27
211	52574	12.0293	6	8	11	14	18
212	12	10.1667	1	6	8	9	12
213	5133	14.0746	4	6	10	17	28
214	21375	14.8495	6	8	12	18	27
215	32382	9.7039	4	6	8	12	17
216	4801	13.6045	2	4	10	18	30
217	12745	22.3197	3	7	15	29	48
218	10391	11.6841	4	6	9	14	21
219	17313	6.9251	3	4	6	8	12
220	1	3.0000	3	3	3	3	3
221	3295	10.1560	2	3	7	13	21
222	9048	5.0868	1	2	4	7	11
223	12478	6.5162	2	3	5	8	12
224	8727	3.6809	1	2	3	4	7
225	16849	4.8740	1	2	3	5	10
226	3740	10.6374	2	4	7	13	23
227	8618	4.4233	1	2	3	5	9
228	5393	4.4840	1	2	3	5	9
229	5126	2.7876	1	1	2	3	5
230	3545	7.2217	1	2	4	8	14
231	7996	6.2996	1	2	3	7	14
232	868	6.2903	1	1	3	7	16
233	5153	12.5913	3	5	9	15	25
234	6552	6.2793	2	3	5	8	12
235	6385	14.0799	2	4	8	15	35
236	39479	10.1272	2	5	8	12	19
237	2031	6.2713	2	3	5	8	12
238	5448	14.7417	4	7	11	18	30
239	61195	10.2798	3	5	8	13	20
240	10812	9.9791	3	5	8	12	19
241	7293	6.6432	2	3	5	8	12
242	2469	11.5233	3	5	8	14	23
243	141904	6.9902	2	3	5	9	13
244	11837	7.6225	2	3	6	9	14
245	9529	5.6149	2	3	4	7	10
246	2414	5.9925	2	3	5	7	11
247	10606	5.1742	1	2	4	7	10
248	7178	6.0561	2	3	5	7	12
249	5393	6.8581	1	2	5	8	15
250	3562	6.9402	1	2	4	8	13
251	6030	3.5391	1	1	2	4	7
253	14865	8.8736	2	4	6	10	17
254	19699	5.3260	1	2	4	6	10
256	9770	5.6950	1	2	4	7	11
257	22465	7.1536	3	4	6	8	12
258	28105	5.3778	3	4	5	7	8
259	3728	7.4268	2	3	5	9	16
260	5006	3.6247	1	2	3	5	6

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
261	4535	3.3032	1	2	3	4	6
262	4426	2.6324	1	1	2	3	5
263	25373	22.1475	6	9	15	27	45
264	7920	14.6138	4	7	11	18	29
265	5217	11.5277	2	4	7	14	24
266	6886	5.0293	1	2	3	7	11
267	622	4.6833	1	2	3	6	10
268	2179	3.9523	1	1	2	4	8
269	8671	12.1872	2	4	8	15	25
270	8086	5.1534	1	2	3	6	11
271	17661	12.2979	3	6	9	14	22
272	6728	9.7952	3	5	7	12	19
273	3898	7.7719	2	4	6	9	16
274	4565	9.9553	2	3	7	12	22
275	990	6.1566	1	2	4	6	12
276	1205	4.6083	1	2	3	6	10
277	50701	9.1369	3	5	7	11	16
278	29751	6.9421	3	4	6	8	12
279	4	3.7500	2	2	4	4	5
280	12745	6.7524	2	3	5	8	13
281	11437	4.6129	1	2	3	6	9
282	2	6.0000	6	6	6	6	6
283	6000	7.7022	2	3	6	9	15
284	4152	5.1626	1	2	4	6	10
285	3174	24.1150	7	11	18	29	45
286	1418	14.9513	6	8	10	17	28
287	6718	20.0085	5	8	14	23	40
288	552	12.3370	3	5	7	12	23
289	3753	7.2601	2	3	5	7	15
290	8873	4.9948	2	3	4	5	9
291	215	3.0093	1	1	2	3	5
292	3992	17.8151	4	8	13	21	34
293	1051	10.2940	2	4	7	12	19
294	103723	7.7577	3	4	6	9	14
295	3005	6.2536	2	3	5	8	12
296	165280	8.6290	2	4	6	10	16
297	63299	5.7995	2	3	4	7	10
298	63	4.4762	1	2	3	5	9
299	999	7.4895	1	3	5	9	15
300	10678	9.8400	3	5	7	12	19
301	3616	6.2801	2	3	5	8	12
302	6233	18.6725	8	11	15	23	33
303	15162	15.3758	7	9	12	18	27
304	12938	14.7880	4	7	11	18	28
305	8599	8.4501	2	4	7	11	15
306	10595	10.6865	4	5	8	13	20
307	7551	6.2670	3	4	5	8	11
308	7613	10.8043	2	4	8	13	21
309	5302	5.6226	1	2	4	8	12
310	29569	6.5484	2	3	5	8	13
311	32363	3.5070	1	2	3	4	7

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
312	4172	6.1407	1	2	4	8	13
313	4144	3.5784	1	2	3	4	7
314	3	5.6667	4	4	5	8	8
315	25298	14.0137	2	4	9	18	30
316	40046	9.4619	2	4	7	12	19
317	1997	3.0145	1	1	2	3	6
318	7967	9.3906	2	3	6	12	20
319	1996	4.4469	1	1	3	6	10
320	130960	8.9066	3	5	7	11	15
321	47404	6.6566	3	4	6	8	11
322	58	6.5690	2	3	5	8	10
323	23385	4.3036	1	2	3	5	9
324	20345	3.1416	1	1	2	4	6
325	11530	6.3063	2	3	5	8	12
326	7327	4.1015	1	2	3	5	8
327	7	4.1429	1	1	3	5	6
328	2279	5.2677	1	2	4	7	10
329	963	3.3178	1	1	2	4	6
330	2	2.0000	2	2	2	2	2
331	23594	7.7729	2	3	6	9	15
332	10836	4.9563	1	2	3	6	10
333	92	6.0326	1	2	3	6	14
334	8299	12.5632	7	8	11	15	20
335	8324	9.5288	6	7	9	11	14
336	89759	7.4941	3	4	6	9	13
337	119247	5.0367	3	4	5	6	8
338	10781	5.4994	1	1	3	7	13
339	6591	4.0681	1	1	3	5	9
340	4	11.0000	1	1	2	16	25
341	16730	5.1451	2	3	4	6	9
342	1077	3.1746	1	1	2	3	7
344	3611	7.3099	2	4	6	8	14
345	2524	6.0396	1	2	4	7	12
346	10799	8.3611	2	3	6	10	17
347	3674	3.8677	1	1	2	5	8
348	6241	5.5869	1	2	4	7	11
349	5767	2.8663	1	1	2	3	6
350	9608	6.0276	2	4	5	7	10
351	3	1.0000	1	1	1	1	1
352	1313	4.4547	1	2	3	5	9
353	1786	15.3365	7	8	12	18	27
354	6405	10.3533	5	6	8	12	17
355	7636	6.7048	4	5	6	8	9
356	27724	5.9256	3	4	5	7	9
357	6365	13.6624	6	8	11	16	25
358	12970	8.9091	5	6	7	10	15
359	28018	6.1932	4	5	6	7	9
360	5252	5.8740	1	2	4	7	12
361	537	4.6145	1	2	2	5	10
362	32	1.9688	1	1	1	2	3
363	4395	5.4325	1	2	3	5	11

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
364	5578	3.1682	1	1	2	3	7
365	3468	12.7696	4	6	9	16	25
366	5778	10.0748	2	3	7	13	22
367	2021	4.6051	1	2	3	5	10
368	1483	7.6622	3	4	6	9	14
369	3575	5.0719	1	2	3	6	10
370	435	7.7494	4	5	6	8	13
371	622	5.2926	3	4	5	6	7
372	256	3.8828	1	2	3	4	7
373	1616	2.7587	1	2	2	3	4
374	288	3.5972	2	2	3	4	5
375	2	3.5000	3	3	4	4	4
376	108	3.9630	1	2	3	4	8
377	38	4.7105	1	2	3	6	7
378	109	5.0734	3	4	5	6	7
379	216	3.0185	1	1	2	4	6
380	56	2.0714	1	1	1	2	5
381	298	2.4329	1	1	1	2	5
382	116	1.5259	1	1	1	2	3
383	658	5.3526	1	2	3	6	10
384	86	3.6163	1	1	2	4	8
385	7	10.0000	1	2	5	8	18
386	1	9.0000	9	9	9	9	9
389	48	13.8542	2	3	7	12	31
390	47	8.7447	1	3	6	10	18
392	2265	17.1475	6	8	12	21	34
393	1	6.0000	6	6	6	6	6
394	2043	8.2863	1	2	5	10	18
395	76455	6.4224	1	3	5	8	12
396	42	3.6190	1	1	1	2	7
397	10100	7.7628	2	3	6	10	15
398	10879	9.1697	2	4	7	11	17
399	3147	5.7830	1	2	4	7	12
400	7900	15.7396	4	7	11	19	32
401	5805	15.3115	3	6	11	19	31
402	4215	6.4996	1	2	4	8	14
403	24571	12.1003	2	5	9	15	25
404	8971	7.0128	1	3	5	9	15
405	2	2.5000	2	2	3	3	3
406	3746	17.1743	5	8	13	22	33
407	2120	9.2212	2	5	8	11	18
408	10169	6.7689	2	2	4	7	16
409	8100	10.6063	2	4	6	15	23
410	127070	3.4165	1	2	3	4	6
411	698	4.2120	1	2	3	5	8
412	611	3.2079	1	1	2	4	7
413	10158	10.7714	2	4	8	14	23
414	4907	7.5017	1	3	5	9	16
415	22439	21.0602	5	9	16	26	42
416	99337	10.6946	2	5	9	13	20
417	31	7.4194	2	4	7	9	13

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V5.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
472	188	33.7660	1	10	28	48	73
473	7909	15.8780	2	4	9	23	39
474	8780	45.4845	18	22	35	56	85
475	17989	13.2293	2	5	11	17	26

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
001	25329	19.2277	6	9	14	23	38
002	5247	19.5948	4	8	13	24	41
003	7	19.1429	1	7	16	23	24
004	4625	17.1762	4	7	13	21	35
005	49433	8.2420	3	4	6	10	15
006	2403	2.8577	1	1	2	3	5
007	5341	23.4155	2	6	12	25	52
008	4708	5.4947	1	2	3	6	11
009	2133	11.6606	2	4	8	13	22
010	17721	11.7036	2	4	8	15	24
011	5454	7.5994	1	3	5	9	16
012	27345	10.6930	2	4	7	12	19
013	5597	10.0668	3	5	8	12	18
014	321583	10.8246	3	5	8	13	21
015	156828	5.6459	2	3	4	7	10
016	14432	9.3395	2	4	7	11	17
017	7008	6.5060	2	3	5	7	11
018	12355	9.4988	2	4	7	11	18
019	12480	6.1090	1	2	5	8	12
020	5978	11.7556	2	5	9	15	24
021	812	9.9741	3	4	7	13	19
022	13465	5.8789	2	3	5	7	11
023	4440	6.9410	1	2	5	8	14
024	45544	7.6544	2	3	5	9	15
025	30010	4.8032	1	2	4	6	9
026	46	4.8696	1	1	3	5	11
027	2522	9.6122	1	2	5	12	23
028	6274	9.6302	1	3	6	12	20
029	5016	5.3154	1	2	4	7	12
030	1	1.0000	1	1	1	1	1
031	4455	6.5181	1	2	4	8	12
032	5406	3.9129	1	2	3	5	8
034	11567	9.5162	2	4	6	11	19
035	5912	5.5940	1	2	4	7	11
036	20865	3.4337	1	2	3	4	6
037	3207	4.6289	1	2	3	5	9
038	1576	2.8756	1	1	2	3	5
039	36756	2.0577	1	1	2	2	3
040	6076	2.9668	1	1	2	3	6
041	1	1.0000	1	1	1	1	1
042	23928	3.1296	1	2	2	4	6
043	326	5.6319	1	2	4	5	8
044	2424	7.0120	3	4	6	9	13
045	3687	4.4337	1	2	3	6	8
046	3467	6.1246	1	2	4	8	12
047	3695	3.6111	1	1	2	5	8
049	7489	15.7227	3	7	12	19	30
050	5548	3.2495	1	2	3	4	6
051	832	3.0913	1	1	2	3	6
052	236	4.8305	1	2	3	5	10
053	9447	3.3779	1	1	2	3	7

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
054	3	5.6667	4	4	5	8	8
055	8955	2.6385	1	1	1	2	5
056	1734	2.4781	1	1	2	3	5
057	850	6.3306	1	2	3	7	14
058	1	2.0000	2	2	2	2	2
059	368	2.1712	1	1	1	2	4
060	1	3.0000	3	3	3	3	3
061	569	5.1880	1	1	2	5	13
062	3	6.3333	1	1	3	15	15
063	6514	7.5111	1	2	4	8	16
064	7322	8.8815	1	2	5	11	20
065	31957	4.2223	2	2	3	5	8
066	10551	4.1719	1	2	3	5	7
067	459	6.4619	2	3	5	8	12
068	12434	6.4945	2	3	5	8	12
069	5978	4.8337	2	3	4	6	9
070	29	4.2414	1	2	3	6	7
071	119	6.4034	2	2	4	7	10
072	816	5.0956	1	2	3	6	9
073	9327	5.9913	1	2	4	7	12
074	1	1.0000	1	1	1	1	1
075	29757	15.3040	6	8	12	18	28
076	13871	16.1283	3	6	11	20	32
077	2607	6.6360	1	2	4	9	15
078	28984	10.8142	4	7	10	13	18
079	91377	12.8809	4	6	10	16	24
080	14845	9.6362	3	5	8	12	17
081	5	6.6000	1	1	5	7	16
082	91280	9.6726	2	4	7	12	20
083	6849	8.8258	2	4	7	11	17
084	2941	5.5172	2	3	4	7	10
085	15165	9.3068	2	4	7	12	18
086	3190	6.3749	2	3	5	8	12
087	47137	8.3414	1	4	6	10	16
088	124868	8.1612	3	4	6	10	15
089	293506	9.3206	3	5	8	11	17
090	66865	7.0091	3	4	6	9	12
091	47	5.1702	2	3	4	7	10
092	10182	9.2520	3	4	7	12	18
093	3163	6.8761	2	3	5	9	13
094	8330	10.0190	3	5	8	12	19
095	1925	6.3709	2	3	5	8	12
096	186419	7.5179	3	4	6	9	13
097	53497	5.7106	2	3	5	7	10
098	17	4.5294	1	3	4	6	7
099	23844	5.4333	2	2	4	7	10
100	13026	3.5125	1	2	3	4	6
101	20196	7.4020	2	3	6	9	14
102	6339	5.0771	1	2	4	6	10
103	47	43.4681	13	19	30	44	122
104	9459	22.0792	10	13	18	26	39

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
105	10161	16.8540	8	10	13	19	30
106	53944	16.8970	9	11	14	19	27
107	36200	13.0297	8	9	10	14	20
108	4947	15.5559	5	9	12	18	28
109	9987	12.2587	1	4	9	16	26
110	61599	16.7861	6	9	13	20	31
111	20953	10.2816	5	7	9	12	16
112	82473	7.9777	2	3	6	10	16
113	33075	19.3258	6	9	14	23	36
114	8750	14.1126	3	6	11	18	28
115	7069	15.3607	6	9	13	19	27
116	56434	8.2242	3	4	7	10	15
117	4019	6.6163	2	3	4	8	13
118	8230	3.9887	1	2	3	4	8
119	4420	6.4597	1	2	4	7	14
120	20862	17.6798	3	6	12	22	36
121	132941	11.0133	4	7	10	13	18
122	130066	8.1824	2	5	8	10	13
123	68963	5.5977	1	1	3	7	14
124	73831	6.3658	1	2	5	8	13
125	102216	3.2186	1	2	2	4	7
126	3443	22.5321	5	11	20	31	43
127	510324	8.2170	3	4	6	10	15
128	35137	9.2010	4	6	8	11	14
129	8353	5.8719	1	1	2	7	14
130	56711	8.1413	2	3	7	10	15
131	34209	5.8984	1	2	5	8	11
132	20940	6.0324	2	3	5	7	11
133	9230	4.5930	1	2	4	5	8
134	40176	5.7260	2	3	4	7	10
135	7356	7.1767	2	3	5	9	14
136	2424	4.9922	1	2	4	6	8
138	157843	6.3931	2	3	5	8	12
139	85064	4.4553	1	2	4	6	8
140	373528	5.0035	2	3	4	6	9
141	64694	5.9560	2	3	5	7	11
142	42100	4.3111	1	2	3	5	8
143	88303	3.7171	1	2	3	5	7
144	44617	8.0890	2	4	6	10	16
145	9516	4.8851	1	2	4	6	9
146	6392	16.6023	8	11	14	19	27
147	3131	11.7480	7	9	11	14	18
148	115528	17.8689	8	10	14	21	31
149	34599	11.4052	7	8	10	13	17
150	15444	15.4325	6	9	12	18	27
151	7557	9.9194	5	7	9	12	16
152	6677	10.3211	3	6	8	12	19
153	4505	7.8260	3	5	8	10	12
154	43730	17.7039	5	9	13	21	34
155	11088	10.2820	4	6	9	13	18
156	4	14.5000	1	1	1	8	8

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
157	23376	7.5483	2	3	6	9	14
158	24664	4.0348	1	2	3	5	8
159	12088	7.4795	2	4	6	9	14
160	16887	4.4595	2	2	4	6	8
161	31433	5.1493	1	2	4	6	10
162	55821	2.9852	1	2	3	4	5
163	16	6.1250	1	3	5	7	8
164	3863	13.2827	6	8	11	15	22
165	3084	8.6877	5	6	8	10	13
166	2276	8.8352	3	5	7	10	15
167	2973	5.0743	3	3	5	6	8
168	2458	6.2681	1	2	3	7	15
169	3286	3.1074	1	1	2	3	6
170	11743	16.4425	4	7	12	21	32
171	2856	9.4807	2	4	7	12	18
172	31197	10.5325	2	4	7	13	22
173	7080	6.3517	1	2	4	8	13
174	122648	7.3642	2	4	6	9	13
175	41742	5.1376	2	3	4	6	9
176	11725	8.0206	3	4	6	10	15
177	17848	6.6538	3	4	5	8	12
178	10678	4.9852	2	3	4	6	9
179	7341	9.6762	3	5	7	12	18
180	50932	7.9655	2	4	6	10	15
181	29543	5.1367	2	3	4	6	9
182	220654	6.4852	2	3	5	8	12
183	107800	4.6684	2	2	4	6	8
184	58	4.5172	1	2	2	5	8
185	4323	6.2970	1	2	4	8	12
186	3	9.3333	4	4	9	15	15
187	2313	2.9464	1	1	2	3	6
188	33029	7.4834	2	3	5	9	15
189	14236	4.2730	1	2	3	5	9
190	188	6.3511	2	3	4	7	11
191	7106	23.4249	8	11	18	29	45
192	1447	14.1279	6	8	12	17	25
193	13137	17.7056	7	10	15	21	31
194	8490	12.4086	5	8	11	15	20
195	21461	14.0877	7	9	12	16	23
196	4756	10.2984	6	7	9	12	16
197	53596	10.9838	5	7	9	13	18
198	43948	7.1505	4	5	6	8	11
199	3505	15.5512	5	8	13	20	29
200	2173	13.9742	2	6	11	18	29
201	4531	13.6171	2	5	10	17	28
202	15097	10.2601	2	5	8	13	20
203	30900	9.6514	2	4	7	12	20
204	33091	8.0349	3	4	6	10	15
205	18568	9.6658	2	4	7	12	19
206	4549	5.7265	1	2	4	7	12
207	34559	7.5178	2	4	6	9	14

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
208	19449	4.7088	1	2	4	6	9
209	185439	13.3208	8	9	12	15	20
210	79642	16.0895	7	10	13	18	27
211	52590	12.0349	6	8	11	14	18
212	12	10.1667	1	6	8	9	12
213	5133	14.0746	4	6	10	17	28
214	21374	14.8496	6	8	12	18	27
215	32383	9.7040	4	6	8	12	17
216	4801	13.6045	2	4	10	18	30
217	12745	22.3197	3	7	15	29	48
218	10391	11.6841	4	6	9	14	21
219	17313	6.9251	3	4	6	8	12
220	1	3.0000	3	3	3	3	3
221	3295	10.1560	2	3	7	13	21
222	9048	5.0868	1	2	4	7	11
223	12478	6.5162	2	3	5	8	12
224	8727	3.6809	1	2	3	4	7
225	16849	4.8740	1	2	3	5	10
226	4010	10.6928	2	4	7	13	23
227	9344	4.4386	1	2	3	5	9
228	5393	4.4840	1	2	3	5	9
229	5126	2.7876	1	1	2	3	5
230	3375	7.1615	1	2	4	8	14
231	7170	6.3257	1	2	3	7	14
232	868	6.2903	1	1	3	7	16
233	5153	12.5913	3	5	9	15	25
234	6552	6.2793	2	3	5	8	12
235	6385	14.0799	2	4	8	15	35
236	39479	10.1272	2	5	8	12	19
237	2031	6.2713	2	3	5	8	12
238	5448	14.7417	4	7	11	18	30
239	61195	10.2798	3	5	8	13	20
240	10812	9.9791	3	5	8	12	19
241	7293	6.6432	2	3	5	8	12
242	2469	11.5233	3	5	8	14	23
243	141904	6.9902	2	3	6	9	13
244	11837	7.6225	2	3	6	9	14
245	9529	5.6149	2	3	4	7	10
246	2414	5.9925	2	3	5	7	11
247	10606	5.1742	1	2	4	7	10
248	7178	6.0561	2	3	5	7	12
249	5393	6.8581	1	2	5	8	15
250	3562	6.9402	1	2	4	8	13
251	6030	3.5891	1	1	2	4	7
253	14865	8.8736	2	4	6	10	17
254	19699	5.3260	1	2	4	6	10
256	9770	5.6950	1	2	4	7	11
257	22465	7.1536	3	4	6	8	12
258	28105	5.3778	3	4	5	7	8
259	3728	7.4268	2	3	5	9	16
260	5006	8.6247	1	2	3	5	6

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
261	4535	3.3032	1	2	3	4	6
262	4426	2.6324	1	1	2	3	5
263	25373	22.1475	6	9	15	27	45
264	7920	14.6138	4	7	11	18	29
265	5217	11.5277	2	4	7	14	24
266	6886	5.0293	1	2	3	7	11
267	622	4.6833	1	2	3	6	10
268	2179	3.9523	1	1	2	4	8
269	9028	12.5176	2	4	9	16	26
270	8155	5.2473	1	2	3	6	11
271	17661	12.2979	3	6	9	14	22
272	6728	9.7952	3	5	7	12	19
273	3898	7.7719	2	4	6	9	16
274	4565	9.9553	2	3	7	12	22
275	990	6.1566	1	2	4	6	12
276	1205	4.6083	1	2	3	6	10
277	50701	9.1369	3	5	7	11	16
278	29751	6.9421	3	4	6	8	12
279	4	3.7500	2	2	4	4	5
280	12745	6.7524	2	3	5	8	13
281	11437	4.6129	1	2	3	6	9
282	2	6.0000	6	6	6	6	6
283	6000	7.7022	2	3	6	9	15
284	4152	5.1626	1	2	4	6	10
285	3174	24.1150	7	11	18	29	45
286	1418	14.9513	6	8	10	17	28
287	6718	20.0085	5	8	14	23	40
288	552	12.3370	3	5	7	12	23
289	3753	7.2601	2	3	5	7	15
290	8873	4.9948	2	3	4	5	9
291	215	3.0093	1	1	2	3	5
292	4003	17.8294	4	8	13	21	34
293	1051	10.2940	2	4	7	12	19
294	103723	7.7577	3	4	6	9	14
295	3005	6.2536	2	3	5	8	12
296	165280	8.6290	2	4	6	10	16
297	63299	5.7995	2	3	4	7	10
298	63	4.4762	1	2	3	5	9
299	999	7.4895	1	3	5	9	15
300	10678	9.8400	3	5	7	12	19
301	3616	6.2801	2	3	5	8	12
302	6233	18.6725	8	11	15	23	33
303	15162	15.3758	7	9	12	18	27
304	13767	14.5245	4	7	11	18	28
305	7770	8.2407	2	4	7	10	15
306	10612	10.6823	4	5	8	13	20
307	7533	6.2634	3	4	5	8	11
308	7811	10.6799	2	4	8	13	21
309	5649	5.5335	1	2	4	7	11
310	29986	6.5380	2	3	5	8	13
311	31940	3.4759	1	2	3	4	6

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
312	3987	6.1680	1	2	4	8	13
313	3791	3.5083	1	2	3	4	7
314	8	5.6667	4	4	5	8	8
315	25475	13.9985	2	4	9	18	30
316	40046	9.4619	2	4	7	12	19
317	1997	3.0145	1	1	2	3	6
318	7967	9.3906	2	3	6	12	20
319	1996	4.4469	1	1	3	6	10
320	130960	8.9066	3	5	7	11	15
321	47404	6.6566	3	4	6	8	11
322	58	6.5690	2	3	5	8	10
323	24914	4.3382	1	2	3	5	9
324	18816	3.0013	1	1	2	4	6
325	11530	6.3063	2	3	5	8	12
326	7327	4.1015	1	2	3	5	8
327	7	4.1429	1	1	3	5	6
328	2279	5.2677	1	2	4	7	10
329	963	3.3178	1	1	2	4	6
330	2	2.0000	2	2	2	2	2
331	23594	7.7729	2	3	6	9	15
332	10836	4.9563	1	2	3	6	10
333	92	6.0326	1	2	3	6	14
334	8299	12.5632	7	8	11	15	20
335	8324	9.5288	6	7	9	11	14
336	89758	7.4941	3	4	6	9	13
337	119247	5.0367	3	4	5	6	8
338	10781	5.4994	1	1	3	7	13
339	6591	4.0681	1	1	3	5	9
340	4	11.0000	1	1	2	16	25
341	16730	5.1451	2	3	4	6	9
342	1077	3.1746	1	1	2	3	7
344	3599	7.3184	2	4	6	8	14
345	2520	6.0321	1	2	4	7	12
346	10799	8.3611	2	3	6	10	17
347	3674	3.8677	1	1	2	5	8
348	6241	5.5869	1	2	4	7	11
349	5767	2.8663	1	1	2	3	6
350	9608	6.0276	2	4	5	7	10
351	3	1.0000	1	1	1	1	1
352	1313	4.4547	1	2	3	5	9
353	1786	15.3365	7	8	12	18	27
354	6405	10.3533	5	6	8	12	17
355	7636	6.7048	4	5	6	8	9
356	27724	5.9256	3	4	5	7	9
357	6365	13.6624	6	8	11	16	25
358	12970	8.9091	5	6	7	10	15
359	28017	6.1932	4	5	6	7	9
360	5251	5.8739	1	2	4	7	12
361	537	4.6145	1	2	2	5	10
362	32	1.9688	1	1	1	2	3
363	4395	5.4325	1	2	3	5	11

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
364	5578	3.1682	1	1	2	3	7
365	3515	13.0785	4	6	9	16	26
366	5778	10.0748	2	3	7	13	22
367	2021	4.6051	1	2	3	5	10
368	1483	7.6622	3	4	6	9	14
369	3575	5.0719	1	2	3	6	10
370	435	7.7494	4	5	6	8	13
371	622	5.2926	3	4	5	6	7
372	256	3.8828	1	2	3	4	7
373	1616	2.7587	1	2	2	3	4
374	289	3.5917	2	2	3	4	5
375	2	3.5000	3	3	4	4	4
376	108	3.9630	1	2	3	4	8
377	38	4.7105	1	2	3	6	7
378	109	5.0734	3	4	5	6	7
379	216	3.0185	1	1	2	4	6
380	56	2.0714	1	1	1	2	5
381	298	2.4329	1	1	1	2	5
382	116	1.5259	1	1	1	2	3
383	658	5.3526	1	2	3	6	10
384	86	3.6163	1	1	2	4	8
385	7	10.0000	1	2	5	8	18
389	48	13.8542	2	3	7	12	31
390	47	8.7447	1	3	6	10	18
392	2265	17.1475	6	8	12	21	34
393	1	6.0000	6	6	6	6	6
394	2317	10.2624	1	2	6	12	23
395	76455	6.4224	1	3	5	8	12
396	42	3.6190	1	1	1	2	7
397	10100	7.7628	2	3	6	10	15
398	10861	9.1734	2	4	7	11	17
399	3165	5.7896	1	2	4	7	12
400	7900	15.7396	4	7	11	19	32
401	5805	15.3115	3	6	11	19	31
402	4215	6.4996	1	2	4	8	14
403	24571	12.1003	2	5	9	15	25
404	8971	7.0128	1	3	5	9	15
405	2	2.5000	2	2	3	3	3
406	3744	17.1741	5	8	13	22	33
407	2122	9.2290	2	5	8	11	18
408	10169	6.7589	2	2	4	7	16
409	8100	10.6063	2	4	6	15	23
410	127070	3.4165	1	2	3	4	6
411	698	4.2120	1	2	3	5	8
412	611	3.2079	1	1	2	4	7
413	10156	10.7726	2	4	8	14	23
414	4909	7.5005	1	3	5	9	16
415	22439	21.0602	5	9	16	26	42
416	99337	10.6946	2	5	9	13	20
417	31	7.4194	2	4	7	9	13
418	11479	8.9634	3	4	7	11	17

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
419	14208	7.8528	2	4	6	9	15
420	4971	5.8970	2	3	5	7	11
421	11821	5.7451	2	3	4	7	11
422	97	5.3402	1	2	3	7	10
423	8524	11.9093	3	5	8	14	24
424	8384	22.2624	3	7	15	26	44
425	15259	6.3229	2	3	4	8	12
426	11183	8.1590	2	3	6	10	16
427	2059	7.8120	2	3	5	9	16
428	1285	10.4856	1	3	6	13	22
429	31527	11.7737	3	4	7	13	21
430	62101	12.8448	3	5	9	16	27
431	427	9.2108	2	3	6	11	19
432	651	7.1321	1	2	4	8	15
433	5063	5.0660	1	1	3	6	12
434	16057	8.7405	2	3	6	10	20
435	14937	7.7844	2	3	5	8	21
436	4875	15.4888	2	6	15	24	29
437	7934	18.0983	4	9	20	27	30
439	1150	13.0365	1	3	8	17	30
440	7136	17.4113	2	5	12	22	39
441	1134	4.3201	1	1	2	4	9
442	40417	10.2225	1	3	6	13	23
443	17555	6.7155	1	2	4	9	15
444	3523	7.1967	2	3	5	9	14
445	3117	5.1630	1	2	4	6	10
446	1	2.0000	2	2	2	2	2
447	2890	3.7339	1	1	3	5	7
448	1	4.0000	4	4	4	4	4
449	30826	6.3831	2	3	5	8	12
450	13196	4.1022	1	2	3	5	8
451	14	4.8571	1	2	3	4	9
452	25628	7.1609	1	3	5	9	15
453	12296	4.5614	1	2	3	6	9
454	4036	7.2812	1	2	4	8	14
455	1780	4.0365	1	2	3	5	8
456	239	10.0711	1	2	5	10	21
457	140	8.6143	1	1	3	12	23
458	1743	24.7177	5	10	19	32	51
459	947	15.5956	3	6	11	19	33
460	2453	9.5944	2	4	7	12	19
461	9522	4.8649	1	1	2	5	11
462	5360	18.4851	4	8	15	25	36
463	9758	7.2406	2	3	5	9	14
464	4205	4.6942	1	2	3	6	9
465	1082	2.8373	1	1	2	3	5
466	4529	5.3939	1	1	2	6	11
467	7299	8.6845	1	1	3	6	14
468	68717	19.0396	3	8	14	23	38
471	3710	19.6081	10	12	16	23	31
472	188	38.7660	1	10	28	48	73

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY87 MEDPAR UPDATE 06/88 GROUPER V6.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
473	7909	15.8780	2	4	9	23	39
474	8780	45.4845	13	22	35	56	85
475	17989	13.2293	2	5	11	17	26
476	11271	18.0169	8	11	15	21	30
477	38485	10.6069	1	3	7	13	21

Table 8 --
Statewide Average Cost-to-Charge Ratios
For Urban and Rural Hospitals
(Case Weighted)

State	Urban	Rural
Alabama	0.5194	0.5815
Alaska	0.6731	0.8809
Arizona	0.6117	0.6523
Arkansas	0.6076	0.5922
California	0.6095	0.6023
Colorado	0.6747	0.7349
Connecticut	0.7262	0.8198
Delaware	0.6008	0.6079
District of Columbia	0.6429	--
Florida	0.5455	0.5496
Georgia	0.6174	0.5996
Hawaii	0.6498	0.7848
Idaho	0.7100	0.7257
Illinois	0.6055	0.6643
Indiana	0.7174	0.7392
Iowa	0.7118	0.7290
Kansas	0.6590	0.7555
Kentucky	0.6030	0.5904
Louisiana	0.6001	0.6339
Maine	0.6815	0.6640
Maryland	0.7315	0.7333
Massachusetts	0.6993	0.7797
Michigan	0.6214	0.7019
Minnesota	0.7073	0.7762
Mississippi	0.6301	0.6376
Missouri	0.5989	0.6416
Montana	0.6694	0.7304
Nebraska	0.6232	0.7383
Nevada	0.5141	0.6392
New Hampshire	0.7298	0.7469
New Jersey	0.6823	--
New Mexico	0.5939	0.6106
New York	0.6270	0.7102
North Carolina	0.6560	0.5987
North Dakota	0.7175	0.7089
Ohio	0.7129	0.7016
Oklahoma	0.6111	0.6355
Oregon	0.6747	0.6872
Pennsylvania	0.5684	0.6402
Puerto Rico	0.5959	0.7761
Rhode Island	0.7797	--
South Carolina	0.5975	0.5795
South Dakota	0.6142	0.6991
Tennessee	0.5642	0.5681
Texas	0.6134	0.7097
Utah	0.6636	0.6854
Vermont	0.7698	0.7129
Virginia	0.6019	0.6018
Washington	0.6933	0.7362
West Virginia	0.6474	0.6071
Wisconsin	0.7769	0.7733
Wyoming	0.7400	0.7458

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Appendix A— Regulatory Impact Analysis

I. Introduction

Executive Order (E.O.) 12291 requires us to prepare and publish a final regulatory impact analysis for any final rule that meets one of the E.O. criteria for a "major rule"; that is, that will be likely to result in: an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a final regulatory fexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all hospitals as small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a final 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 604 of the RFA. With the exception of hospitals located in certain rural counties adjacent to urban areas, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area or New England County Metropolitan Area, as modified for purposes of the prospective payment system in accordance with the provisions of 601(g) of the Social Security Amendments of 1983 (Pub. L. 98–21). Section 1886(d)(8)(B) of the Act, as added by section 4005(a) of the Pub. L. 100–203, specifies that hospitals located in certain rural counties adjacent to urban areas are deemed to be located in an adjacent urban area. We have indentified more than 50 hospitals, some of which may be considered small, which we are classifying as urban hospitals.

It is clear that changes presented in this document will affect both a substantial number of small rural hospitals as well other classes of hospitals, and the effects on some will 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 in accordance with E.O. 12291, section 1102 and the Act, and the RFA.

II. Impact on Excluded Hospitals and Units

As of July 1, 1988, there were 847 Medicare hospitals and 1,563 units in hospitals excluded from the prospective payment system and therefore, paid on a reasonable cost basis subject to the rate-of-increase ceiling requirement of § 413.40. For cost reporting periods beginning in FY 1989, these hospitals will have their individual target amounts increased by the hospital market basket percentage increase. We are projecting an increase in the hospital market basket of 5.4 percent.

The effect this will have on affected hospitals and units will vary depending on each one's existing relationship of costs per discharge to its target amount, and the relative gains in productivity (efficiency) the hospital or unit is able to achieve. For hospitals and units that incur per discharge costs lower than their target amounts, the primary impact will be to affect the level of incentive payments made under § 413.40(d). A hospital may receive incentive payments of incurring costs that are less than its target amount, but may not receive payments for costs that exceed that target amount. Even with the full market basket increase, we expect that the increased ceiling on payments will maintain existing incentives for economy and efficiency experienced by excluded hospitals and units.

III. Analysis of the Quantifiable Impact of Changes in Policy Affecting Rates and Payment Amounts

A. Basis and Methodology of Estimates

In the initial impact analysis, the data used in developing the quantitative estimates of changes in payments in Table I, below, were derived from FY 1987 billing data and hospital-specific data for FY 1985 and FY 1986. As in previous analyses, we compared the effects of changes being made for FY 1989 to our estimate of the payment amounts in effect for FY 1988.

Although many of the FY 1988 payment parameters have been in effect only since April 1, 1988, for purposes of initial impact analysis, we assumed that all payment parameters had been in effect since October 1, 1987. Moreover, section 4002(g)(1)(B) of Pub. L. 100–203 specifies that the update factors applicable to rates for discharges occurring on or after April 1, 1988 are deemed to have been in effect since October 1, 1987 for purposes of determining updated payment rates for discharges occurring in FY 1989. Thus, by assuming that all of the April 1, 1988 parameters have been in effect for the entire 12-month period of FY 1988, we constructed a base year set of parameters that were internally consistent and conformed to the requirement in section 4002(g)(1)(B) of Pub. L. 100–203.

In addition, we treated all hospitals in our data base as if they had the same cost reporting period; that is a cost reporting period coinciding with the Federal fiscal year. Also, our model did not take into account any prospective behavioral changes in response to these proposals.

For this final impact analysis, we are adopting the same method of analysis and the same base year parameters as we did for the initial impact analysis.

As in the initial impact analysis, the tables and the discussion that follow reflect our best effort to identify and quantify the effects of the changes being implemented in this document. It should be noted, however, that as a result of gaps in our data, we are unable to quantify some of the effects of the final rule. Also, we could not include data from all the hospitals in the recalibration data set for modeling the impact analysis because in some cases the hospital-specific data necessary for constructing our impact model were missing. Data on hospital bed size and type of ownership were the data elements most frequently missing. The absent data prevented us from properly classifying and displaying these hospitals in the impact analysis. The missing data, however, did not prevent us from using the discharges from these hospitals in recalibrating the DRG weights or calculating the FY 1989 outlier payments.

The analysis that follows examines separately each of the major changes being made for FY 1989. That is, all variables except those associated with the provisions under examination were held constant so as to display the effects of each provision compared to baseline provisions. In columns 1 and 2 of Table I, we are comparing estimated FY 1988 payments under current policy with the FY 1988 payments that would have resulted if only the specified changes were made. To isolate the impact of the changes in the outlier policy displayed in column 3 of Table I, we compared FY 1989 payment amounts that we estimate will be paid under the final outlier policy (as described in section V.E. of the preamble to this final rule) against

FY 1989 estimated payments under current outlier policy with updated outlier thresholds. Because we are not adopting the wage index based solely on 1984 data but rather are continuing to use the blended wage index to determine payment amounts we have omitted any discussion of the wage index in this impact analysis.

Column 4 of Table I presents the combined effect of all changes set forth in this rule. That is, column 4 displays the combined effects of the previous three columns as well as the FY 1989 update factor (which, given a weighted average of 3.3 percent increase, generally has the largest effect), and the provision to consider the hospitals located in certain rural counties adjacent to MSAs or NECMAs to be located in an adjacent urban area. As such, column 4 is the only one in which the combined effects of the payment policy changes on simulated FY 1989 payments are reflected.

Consistent with the display of the impact presented in Table I, the following discussion is divided into three parts. The first part (columns 1 and 2) describes the effects of two major changes mandated by the statute: (1) annual changes to the DRG classification system and recalibration of the DRG weights required under section 1886(d)(4)(C) of the Act; and (2) changes to payments for disproportionate share hospitals required under section 1886(d)(5)(F) of the Act, changes to payments for the indirect medical education costs of teaching hospitals required under 1886(d)(5)(B) of the Act, and adjustments to the rates in accordance with section 1886(d)(3)(C)(ii) of the Act, all of which were amended by section 4003 of Pub. L. 100–203. The second part of the discussion (column 3) deals with the effects of changes to the outlier payment policy, while the final section (column 4) discusses the combined effect of all the provisions of this final rule.

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TABLE I--ESTIMATED IMPACT OF THE CHANGES IN THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM

	Number of Hospitals 1/	Reclassification and Recalibration 2/ (1)	Statutory Teaching and DSH Changes 3/ (2)	Outlier Payment Changes 4/ (3)	Combined Effect of All Changes 5/ (4)
All Hospitals	5698	0.0	-0.5	0.0	1.9
Urban by Region					
New England	187	0.0	-0.9	-0.3	0.6
Middle Atlantic	373	0.0	-0.4	-1.5	-0.5
South Atlantic	434	0.1	-0.6	0.0	1.6
East North Central	517	0.1	-0.7	0.3	1.8
East South Central	176	0.1	-0.7	-0.1	1.0
West North Central	204	0.1	-0.7	0.9	2.5
West South Central	384	0.2	-0.3	0.8	3.5
Mountain	126	0.1	-0.5	0.7	3.0
Pacific	526	0.1	-0.3	0.6	2.8
Puerto Rico	52	-0.1	0.7	-0.6	1.8
Rural by Region					
New England	61	-0.3	-0.7	0.5	2.9
Middle Atlantic	102	-0.2	-0.5	-0.5	2.9
South Atlantic	357	-0.1	-0.3	-0.3	2.9
East North Central	368	-0.3	-0.3	0.0	4.4
East South Central	318	0.0	-0.2	-0.2	2.9
West North Central	599	-0.4	-0.2	-0.1	3.1
West South Central	459	-0.1	-0.2	-0.2	3.0
Mountain	274	-0.2	-0.4	0.3	3.1
Pacific	173	-0.3	-0.3	0.0	3.0
Puerto Rico	8	-0.5	0.2	-0.3	1.4
Large Urban Areas (populations over 1 million)	1511	0.1	-0.3	-0.2	1.6
Other Urban Areas (populations with 1 million or smaller)	1468	0.0	-0.8	0.3	1.7
Urban Hospitals	2979	0.1	-0.5	0.0	1.6
0-99 Beds	698	-0.1	-0.5	0.1	2.0
100-199 Beds	766	-0.1	-0.2	-0.3	1.6
200-299 Beds	577	0.0	-0.4	0.0	1.8
300-399 Beds	610	0.1	-0.6	0.0	1.6
400 + Beds	271	0.3	-0.7	0.2	1.6
Rural Hospitals	2719	-0.2	-0.3	-0.1	3.2
0-49 Beds	1103	-0.2	0.0	-0.1	3.9
50-99. Beds	863	-0.2	0.0	-0.2	4.0
100-149 Beds	383	-0.3	-0.2	-0.1	3.7
150-199 Beds	154	-0.3	-0.5	0.1	2.8
200 + Beds	158	-0.1	-0.7	-0.2	1.9

Table I - continued

	Number of Hospitals 1/	Reclassification and Recalibration 2/ (1)	Statutory Teaching and DSH Changes 3/ (2)	Outlier Payment Changes 4/ (3)	Combined Effect of All Changes 5/ (4)
Teaching Status					
Non-Teaching	4602	-0.1	-0.3	0.0	2.3
Resident/Bed Ratio Less than 0.25	896	0.1	-0.7	0.1	1.5
Resident/Bed Ratio 0.25 or Greater	200	0.5	-0.6	-0.3	1.2
Disproportionate Share Hospitals (DSH)					
Non-DSH	4431	-0.1	-0.6	0.2	2.1
Urban DSH 100 Beds or More	920	0.3	-0.3	-0.4	1.4
Urban DSH fewer than 100 Beds	96	0.2	-0.5	-0.4	0.9
Rural DSH	251	0.1	-0.1	-0.4	3.2
Urban Teaching and DSH					
Both Teaching and DSH	499	0.4	-0.4	-0.4	1.2
Teaching only	520	0.0	-0.9	0.4	1.7
DSH only	517	0.0	0.0	-0.3	1.9
Nonteaching and Non-DSH	1443	-0.1	-0.5	0.2	1.9
Other Special Status (rural)					
Sole Community Hospitals (SCHs)	302	-0.2	-0.4	0.1	3.7
Rural Referral Centers (RRCs)	199	-0.2	-0.9	0.0	1.7
Both SCH & RRC	21	-0.4	-1.5	0.2	3.0
Type of Ownership					
Voluntary	3058	0.0	-0.6	0.1	1.7
Proprietary	952	0.0	-0.3	-0.6	1.6
Government	1565	0.2	-0.1	0.2	2.7

1/ Because data necessary to classify some hospitals by category were missing, some hospitals were omitted from the analysis. Therefore, the total number of hospitals in each category may not equal the national total.

2/ Recalibration of the DRG weights and classification changes are based on FY 1987 billing data and charges and are performed annually in accordance with section 1886(d)(4)(C) of the Act.

3/ This column reflects the combined effects of adjustments to the indirect medical education cost factor required under section 1886(d)(5)(B)(ii) of the Act, and changes to payments for disproportionate share hospitals required under section 1886(d)(5)(F) of the Act, and adjustments to the rates in accordance with section 1886(d)(3)(C)(ii) of the Act, all of which were amended by section 4003 of Pub. L. 100-203.

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4/ Outlier payments under the new outlier policy were compared to payments under the FY 1988 outlier payment policies. In both cases, FY 1987 data and updated thresholds were used.

5/ This column shows the combined effects of all the previous columns as well as the effects of the update factors mandated under section 1886(b)(3)(B)(i) of the Act, and the effects of section 1886(d)(8) of the Act, which requires that the hospitals located in certain rural counties adjacent to MSAs or NECMAs be considered to be located in an adjacent urban area. Also FY 1988 baseline payments reflect an estimate of outlier payments at 5.9 percent in contrast to the 5.1 percent set for the outlier pool. Because our total FY 1989 estimated payments do not perpetuate this 0.8 percent excess of outlier payments relative to the outlier pool, this column reflects the 0.8 percent reduction in total prospective payments necessary to ensure equality between projected outlier payments and the outlier offsets. In addition, this column captures certain interactive effects that we are not able to quantify.

B. Statutory Changes

Columns 1 and 2 of Table I display the estimated percentage change in payments that will result from each of the statutory changes that become effective on October 1, 1988 as mandated by Pub. L. 100–203; that is, changes in the amount paid to hospitals qualifying as disproportionate share hospitals and in the factor used to calculate the amount paid to hospitals for the indirect cost of graduate medical education. We also include among the statutory changes the required annual reclassification and recalibration of DRG weights.

In column 1, we present the combined effects of revising the current DRG definitions and recalibrating the weights to reflect changes in practice patterns, modes of treatment, and new technologies as required each year by section 1886(d)(4)(C) of the Act. These changes are described in section III of the preamble to this final rule. That is, we compared estimated FY 1988 payments to hospitals using an estimate of each hospital's case-mix index based on the FY 1988 DRG classifications and weighting factors with simulated FY 1988 payments using an estimate of each hospital's case-mix index based on the DRG classifications and recalibrated weighting factors being implemented in this document.

In general, there is little difference in the impact between this final analysis and the one we published in the proposed rule. Overall, the effect of reclassification and recalibration on estimated FY 1988 payments will be negligible. Analyzing the effects geographically, however, column 1 shows that urban hospitals will benefit by about 0.1 percent and rural hospitals will experience payment reductions of about 0.2 percent. Urban hospitals in the West South Central census division will benefit the most from the recalibration of the DRG weights while rural hospitals in Puerto Rico and the West North Central census division will be the most adversely affected as a result of recalibration. Teaching hospitals with large teaching programs will receive about a 0.5 percent increase while rural hospitals with 100—199 beds will experience a 0.3 percent decrease as a result of these changes.

Column 2 displays the combined effects of the changes mandated under section 4003 (a) and (c) of Pub. L. 100–203. Section 4003(a) of Pub. L. 100–203 (which revised section 1886(d)(5)(B)(ii) of the Act) reduces the education adjustment factor used to determine the indirect medical education payment from approximately 8.1 percent to approximately 7.7 percent of discharges occurring on or after October 1, 1988 and before October 1, 1990.

Section 4003(c) of Pub. L. 100–203 amended section 1886(d) of the Act to provide the following changes to the disproportionate share adjustment:

- The adjustment is extended to discharges occurring before October 1, 1990.
- For hospitals that qualify for a disproportionate share adjustment because they receive more than 30 percent of net patient revenues from State and local governmental sources for the care of indigent patients, the payment adjustment factor is increased from 15 percent to 25 percent.
- For hospitals that have 100 or more beds and are located in an urban area and for hospitals that have 500 or more beds and are located in a rural area, the 15 percent cap on the amount of the payment adjustment is eliminated.

The values in column 2 also reflect the effects of restandardization of the rates for the revised indirect medical education factor and, using the latest available data, estimated payments to hospitals serving a disproportionate share of low income patients in accordance with the revised payment formula. Also, we had to adjust the rates in order to generate program savings consistent with the reduction in the indirect medical education factor mandated by section 1886(d)(3)(C)(ii) of the Act (see section II.A.4.c. of the addendum to this final rule).

The overall effect of changing the indirect teaching adjustment factor and payments to disproportionate share hospitals is to reduce payments, nationally, by about 0.5 percent. By far, the greatest burden of the payment reductions will fall on urban hospitals. On average, these hospitals may expect a 0.5 percent reduction while rural hospitals may experience only a 0.3 percent payment reduction. Urban and rural hospitals in the New England region will receive the largest reductions in payments of about 0.9 percent and 0.7 percent, respectively, while rural hospitals in several regions will experience reductions averaging around 0.2 percent. Among the various types of hospitals, both rural referral centers that do not also qualify as sole community hospitals and urban hospitals that qualify for indirect medical education payments will sustain a 0.9 percent reduction in payments. Urban hospitals with 400 beds or more and rural hospitals with 200 or more beds are projected to receive a 0.7 percent reduction in payments.

Small rural hospitals will experience virtually no change in payments as a result of these changes in the statute.

C. Other Changes

Column 3 of Table I shows the estimated effects of changes to the outlier payment policy that we are implementing in this final rule. As a result of the changes to outlier payments that we have made in §§ 412.80, 412.82, 412.84, and the new § 412.86 of the regulations, many day outlier cases whose adjusted charges exceed the cost outlier threshold will be paid using the cost outlier methodology because that methodology generates the higher payment. Also, because we are increasing the marginal cost factor from 60 percent to 75 percent for cost outlier cases (with the exception of cases falling into the six burn-related DRGs described in section V.E.6. of the preamble to this final rule), hospitals will generally receive higher payments for these types of cases. For discharges of both day and cost burn outlier cases that occur on or after April 1, 1988 and before October 1, 1989, section 4008(d)(1)(A) of Pub. L. 100–203 specifies the use of a 90 percent marginal cost factor in computing payment. Because we are required, under section 1886(d)(5)(A)(iii) of the Act, to ensure that outlier payments are between five and six percent of total payments, the necessary corollary of improving payment for outlier cases is that the total number of cases for which we may make outlier payments will have to be decreased.

As discussed in section V.E. of the preamble to this rule, we have adopted several changes in the methodology to be used to identify and pay for outlier cases in FY 1989—an increase to 75 percent in the marginal cost factor for cost outliers; the application of the greater of the day or cost outlier payment amounts to determine payment for the most expensive day outliers (that is, those day outliers whose charges adjusted to cost exceed the cost outlier threshold); and the use of hospital-specific cost-to-charge ratios to adjust charges to cost for discharges from each hospital.

Also, as explained in section V.E. of the preamble, the more complete MEDPAR data now available indicated that we either had to revise the thresholds for day and cost outliers upward in order to preserve the pool of outlier payments at the targeted 5.0 percent that we proposed, revise the marginal cost factors, maintain the proposed thresholds at the proposed levels and increase the size of the outlier

pool, or implement a combination of all three. As discussed in section V.E. of the preamble, we selected a combination of all three changes.

Table II displays some of the major alternative day and cost outlier thresholds we considered adopting along with alternative marginal cost factors used in determining cost outlier payments, and the average of the outlier payment offsets (that is, the size of the outlier pool) required to finance each set of alternatives. As can be seen from Table II, the option we chose represents a compromise between maintaining the outlier pool at the level we proposed but raising the thresholds, and enlarging the outlier pool at the expense of payments for nonoutlier cases in order to keep the thresholds the same as we proposed. It should be noted that, even current outlier payment policies, based on the more complete MEDPAR data available to us, would have resulted in higher outlier thresholds than those in effect for FY 1988. Specifically, making no change in outlier policy (as we have done for discharges occurring on or after October 1, 1988 and before November 1, 1988) and maintaining the outlier pool at the level of 5.1 percent necessitates increasing the day outlier thresholds for FY 1989 from the mean length of stay for each DRG plus the lesser of 18 days or 2.0 standard deviations to the mean length of stay plus the lesser of 22 days or 2.0 standard deviations. Cost outlier thresholds increase similarly from the FY 1988 level of $14,000 or 2.0 times the Federal DRG payment to $23,750 or 2.0 times the Federal DRG payment.

TABLE II.—COMPARISON OF DAY AND COST OUTLIER THRESHOLDS, MARGINAL COST FACTOR FOR PAYMENT OF COST OUTLIERS AND RESULTING OUTLIER POOLS BASED ON A GREATER OF DAY OR COST PAYMENT POLICY

Thresholds	Marginal cost factor	Outlier payment pool
(1) 24 Days or 3 SDs [1] $27,000 or 2x [2 3]	0.80	[4] 5.4
(2) 24 Days or 3 SDs $28,000 or 2x [5]	[6] 0.75	[7] 5.1
(3) 24 Days or 3 SDs $27,000 or 2x [3]	[8] 0.70	[9] 5.0
(4) 24 Days or 3 SDs $27,000 or 2x [3]	0.75	5.2
(5) 25 Days or 3 SDs $29,000 or 2x [10]	0.80	5.0

[1] SD = Standard deviation above the mean of the log distribution of lengths of stay for each DRG.
[2] 2x means 2 times the adjusted Federal rate for the DRG.
[3] Outlier thresholds that were proposed in the May 27, 1988 Federal Register.
[4] The outlier pool that would have resulted from adoption of the outlier thresholds and marginal cost factor as proposed in the May 27, 1988 Federal Register.
[5] The outlier thresholds being implemented in this final rule.
[6] The marginal cost factor being adopted in this final rule.
[7] The outlier pool that was implemented in the April 5, 1988 notice and that we are maintaining for FY 1989 in this final rule.
[8] The marginal cost factor that would have to be implemented were we to adopt the outlier thresholds and outlier pool as proposed in the May 27, 1988 Federal Register.
[9] The outlier pool we proposed in the May 27, 1988 Federal Register.
[10] The outlier thresholds we would have to adopt were we to implement the marginal cost factor and outlier pool as proposed in the May 27, 1988 Federal Register.

As discussed in detail in section V.E. of the preamble to this final rule, the changes being made to the outlier policy will focus outlier payments much more precisely on the most expensive cases than does the outlier policy that was in effect for the first five years of the prospective payment system. Table III compares the percent of cases identified as either day or cost outlier, the percent of payments made to each type of outlier, and the average outlier payment per case for each type under both the FY 1988 and FY 1989 policies, both with thresholds updated for FY 1989. (The part of this table describing the distribution of day and cost outlier cases and payments to each under the outlier payment policy adopted in this final rule can also be found in section V.E. of the preamble. It is duplicated here to facilitate comparison of the distribution of day and cost outlier cases and payments under the FY 1988 and FY 1989 outlier policies.)

TABLE III.—COMPARISON OF THE PERCENT OF DAY AND COST OUTLIER CASES, PERCENT OF PAYMENTS FOR EACH TYPE OF OUTLIER CASE, AND THE AVERAGE PAYMENT PER CASE UNDER THE FY 1988 AND FY 1989 OUTLIER POLICIES

Type of outlier case	Percentage of outlier cases	Percentage of outlier payments	Average outlier payment per outlier case
FY 1988 Policy [1]			
Meets day threshold only	55.6	31.9	$3,286
Meets day and cost thresholds, paid using day methodology	24.7	47.0	10,870
Meets day and cost thresholds, paid using cost methodology			
Subtotal—All cases meeting day threshold	80.3	78.9	
Meets cost threshold only	19.7	21.1	6,109
Total	100.0	100.0	5,717
FY 1989 Policy [2]			
Meets day threshold only	57.0	27.4	$4,591
Meets day and cost thresholds, paid using day methodology	10.6	18.4	16,550
Meets day and cost thresholds, paid using cost methodology	15.0	39.6	25,132
Subtotal—All cases meeting day threshold	82.6	85.4	
Meets cost threshold only	17.4	14.6	8,039
Total	100.0	100.0	9,547

[1] Day outlier threshold = mean length of stay + the lesser of 22 days or 2.0 standard deviations for each DRG. Cost outlier threshold = the greater of $23,750 or 2.0 times the Federal DRG payment for each DRG. Marginal cost factor = .60 for both day and cost outliers. The outlier pool size = 5.1 percent of all DRG payments. National average cost-to-charge ratio = .66. We note that this policy will be in effect for discharges occurring on or after October 1, 1988 and before November 1, 1988.

[2] Day outlier threshold = mean length of stay + the lesser of 24 days or 3.0 standard deviations for each DRG. Cost outlier threshold = the greater of $28,000 or 2.0 times the Federal DRG payment for each DRG. Marginal cost factor = .60 for day outlier methodology; marginal cost factor = .75 for cost outlier methodology. Outlier pool size = 5.1 percent of all DRG payments. Hospital-specific cost-to-charge ratios will be used.

Table III shows that we have increased the average outlier payment per case for both day and cost outlier cases. Payments for cases that qualify for outlier payments solely on the basis of length of stay will decrease as percentage of total outlier payments from 31.9 percent to 27.4 percent while the percentage of cases will increase from 55.6 percent to 57.0 percent. The average payment for these cases will also increase from $3,286 per case to $4,591 per case.

The major effects of the change in the outlier policy, however, will be felt among those hospitals with extremely costly day outliers; that is, cases that exceed both the day and the cost outlier thresholds. The proportion of such cases is expected to remain relatively stable, increasing from 24.7 percent to 25.6 percent of outlier cases. Under the policy of paying the greater of day or cost outlier payments, the number of such cases paid on the basis of the day outlier methodology will decrease from 24.7 percent to 10.6 percent, and the proportion of total payments for these cases will also drop from 47.0 percent to 18.4 percent. Conversely, the number of cases paid on the basis of the cost outlier methodology will increase from zero to 15.0 percent, and the proportion of payments for such cases will increase from zero under the FY 1988 policy to 39.6 percent under the FY 1989 outlier policy. Outlier payments for all "dual" outlier cases, with regard to the methodology under which they are paid, will increase from an average of $10,870 per outlier case under FY 1988 policy to $21,579 per case (which is a weighted average of payments for dual outliers paid under either methodology).

Finally, the number of cost outlier cases—that is, those qualifying solely on the basis of high costs—are projected to decline slightly, from 19.7 percent to 17.4 percent. The average outlier payment for cost outlier cases will also increase significantly, from $6,109 to $8,039.

The increase in the average outlier payment per outlier case is a result of a much more specifically targeted policy aimed at reducing the financial risk associated with extraordinarily high cost cases. Although we expect this change in policy to benefit many hospitals that treat outlier cases, some hospitals will experience reductions in outlier payments because of the overall reduction in the number of cases that will qualify as outliers.

Column 3 of Table I presents the impact these changes will have on estimated FY 1989 payments. Because total payments systemwide under any outlier policy are constrained to the level of total payments systemwide if there were no outlier policy (hence, no outlier offsets to the rates), there is no aggregate national effect resulting from the changes in outlier payment policies. The distributive effects of these changes, however, are significant.

Payments to urban hospitals in the Middle Atlantic region are projected to decline by 1.5 percent while payments to urban hospitals in the West North Central region are projected to increase by about 0.9 percent over levels that would occur if there were no change in outlier policy. The outlier policy change is expected to produce about a 0.1 percent reduction in prospective payments to rural hospitals overall, with a projected decrease in payments of 0.5 percent for rural hospitals in the Middle Atlantic region and a projected increase of 0.5 percent for rural hospitals in the New England region.

Those urban hospitals that have graduate medical education programs and serve a disproportionate share of low-income patients will experience a reduction in payments of about 0.4 percent, while those urban teaching hospitals that do not serve a disproportionate share of low-income patients can expect to gain about 0.4 percent in payments.

D. Combined Effects

Column 4 of Table I reflects the change in payments based on FY 1989 rates that incorporate the combined effects of all changes. In addition to the changes described in columns 1 through 3, column 4 also reflects the update factors mandated under section 4002(a) of Pub. L. 100–203, which amended section 1886(b)(3)(B)(i) of the Act. Based on a projected 5.4 percent increase in the hospital market basket, the update factor is—

- 3.9 percent for hospitals located in rural areas;
- 3.4 percent for hospitals located in large urban areas; and
- 2.9 percent for hospitals located in other urban areas.

This column also shows the effects of the provision in section 4005(a) of Pub. L. 100–203, which added section 1886(d)(8)(B) to the Act. This provision requires that hospitals in certain rural counties adjacent to urban areas be deemed to be located in an adjacent urban area if the rural county meets criteria specified in the statute.

Based on the most recent discharge data available, we anticipate that total outlier payments for FY 1988 will equal 5.9 percent of total prospective payments, instead of the 5.1 percent accounted for by the offsets to the FY 1988 rates. Therefore, column 4 also reflects a reduction of 0.8 percent in payments compared to FY 1988 payments because the FY 1988 baseline payments are overstated by 0.8 percent, the amount that reflects outlier payments in excess of the outlier offsets reflected in the FY 1988 standardized amounts.

Nationally, all changes we are implementing are expected to result in a 1.9 percent payment increase. As one might expect, generally, hospitals located in rural areas will benefit more than hospitals located in urban areas because of the comparatively larger update factor granted these hospitals and the smaller effect of the indirect medical education and disproportionate share changes on hospitals located in rural areas. Rural hospitals will receive an average payment increase of 3.2 percent per case. Hospitals located in large urban areas will receive the smallest increase, largely because of the negative effects of the reduction in the indirect medical education factor mandated by statute, and reductions in outlier payments as a result of the revised policy for outliers. Their increase will be 1.6 percent compared to the 1.7 percent increase projected for hospitals located in other urban areas.

Among hospitals grouped by category, rural hospitals that are disproportionate share hospitals and rural hospitals that are sole community hospitals but not rural referral centers are projected to receive the largest increases in payments, of about 3.2 percent and 3.7 percent, respectively. Small urban disproportionate share hospitals (fewer than 100 beds) will receive the smallest increase of 0.9 percent. Small rural hospitals can expect to receive an average increase in their per case payments of nearly 4.0 percent.

We must point out that there are interactions that result from combining the various separate provisions analyzed in columns 1, 2, and 3 of Table I that we are unable to isolate. Thus, the values appearing in column 4 of Table I do not represent merely the additive effects of the previous columns plus the update factors.

Table IV presents the projected FY 1989 average payments per case for urban and rural hospitals and for the different categories of hospitals shown in Table I, and compares them with the average estimated per case payments for FY 1988. As such, this table presents in terms of the average dollar amounts paid per discharge the combined effects of the changes presented in Table I; that is, the percentage change in average payments from FY 1988 to FY 1989 equals the percentage changes shown in the last column of Table I.

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TABLE IV

Comparison of Payment Per Case
(FY 1989 Compared to FY 1988)

	Number of Hospitals	Average FY 1988 Payment Per Case	Average FY 1989 Payment Per Case	Percentage Change[1]
All Hospitals	5698	$4300	$4381	1.9
Urban by Region				
New England	187	4922	4950	0.6
Middle Atlantic	373	5404	5379	-0.5
South Atlantic	434	4303	4370	1.6
East North Central	517	4767	4851	1.8
East South Central	176	4101	4144	1.0
West North Central	204	4716	4835	2.5
West South Central	384	4298	4449	3.5
Mountain	126	4627	4766	3.0
Pacific	526	5348	5496	2.8
Puerto Rico	52	1824	1858	1.8
Rural by Region				
New England	61	3394	3492	2.9
Middle Atlantic	102	3127	3216	2.9
South Atlantic	357	2855	2937	2.9
East North Central	368	2888	3014	4.4
East South Central	318	2445	2516	2.9
West North Central	599	2669	2752	3.1
West South Central	459	2558	2635	3.0
Mountain	274	2956	3049	3.1
Pacific	173	3466	3569	3.0
Puerto Rico	8	1287	1305	1.4
Large Urban Areas (populations over 1 million)	1511	5175	5258	1.6
Other Urban Areas (populations with 1 million or smaller)	1468	4317	4388	1.7
Urban Hospitals	2979	4758	4836	1.6
0-99 Beds	698	3694	3769	2.0
100-199 Beds	766	4113	4177	1.6
200-299 Beds	577	4441	4519	1.8
300-399 Beds	610	4816	4893	1.6
400 + Beds	271	5648	5737	1.6

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Table IV - Continued

	Number of Hospitals	Average FY 1988 Payment Per Case	Average FY 1989 Payment Per Case	Percentage Change[1/]
Rural Hospitals	2719	$2798	$2888	3.2
0-49 Beds	1103	2372	2464	3.9
50-99 Beds	863	2541	2643	4.0
100-149 Beds	383	2748	2850	3.7
150-199 Beds	154	3001	3085	2.8
200 + Beds	158	3303	3367	1.9
Teaching Status				
Non-Teaching	4602	3611	3694	2.3
Resident/Bed Ratio Less than 0.25	896	4844	4918	1.5
Resident/Bed Ratio 0.25 or Greater	200	7197	7286	1.2
Disproportionate Share Hospitals (DSH)				
Non-DSH	4431	3945	4029	2.1
Urban DSH 100 Beds or More	920	5317	5392	1.4
Urban DSH Fewer than 100 Beds	96	4400	4440	0.9
Rural DSH	251	2473	2550	3.2
Urban Teaching and DSH				
Both Teaching and DSH	499	5893	5963	1.2
Teaching only	520	4951	5035	1.7
DSH only	517	4292	4371	1.9
Nonteaching and Non-DSH	1443	4053	4129	1.9
Other Special Status (rural)				
Sole Community Hospitals	302	2790	2893	3.7
Rural Referral Centers (RRCs)	199	3430	3487	1.7
Both SCH & RRC	21	3502	3608	3.0
Type of Ownership				
Voluntary	3058	4468	4545	1.7
Proprietary	952	3842	3902	1.6
Government	1565	3879	3985	2.7

1/ Percentage changes shown in this column are taken from Table I, column 4. The dollar amounts shown in this table are rounded to the nearest dollar. Therefore, percentage changes computed on the basis of these amounts will differ slightly from those displayed in this column as a result of rounding.

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Comment: One commenter stated that hospitals with high Medicare utilization may be more severely affected by the "averaging concept" inherent in the prospective payment system and, with no adjustment for severity of illness, the policy changes being implemented in this rule may disadvantage these hospitals. The commenter asked us to include in our impact analysis a discussion of the effects of policy changes in this final rule on hospitals with high Medicare utilization.

Response: We have analyzed the effects of our policies in this final rule on hospitals that report Medicare utilization (that is, Medicare inpatient days divided by total inpatient days) of greater than 50 percent and compared the results to the effects on hospitals reporting less than 50 percent Medicare patient utilization. We present the results of this analysis in the following table.

TABLE V.—IMPACT OF PROSPECTIVE PAYMENT POLICY CHANGES ON HOSPITALS BY MEDICARE UTILIZATION

	Reclassification and recalibration	Teaching and DSH	Outlier changes	Combined changes
Less than 50 percent	0.1	−0.5	0.1	1.9
More than 50 percent	−0.1	−0.5	−0.2	1.8

Based on the above analysis, we do not observe any significantly different effects on hospitals whose Medicare utilization is greater than 50 percent of the total patient days than on those hospitals with less then 50 percent Medicare utilization.

Since analyzing the effects of policy changes on the basis of Medicare utilization does not appear to reveal any significantly new information, we have not incorporated this analysis into our standard impact analysis tables. We believe that the hospital groupings currently included in our analysis are sufficiently comprehensive to make inclusion of a high Medicare utilization variable unnecessary at the time. However, we will continue to monitor the effect of the prospective payment system on hospitals with high Medicare utilization.

Appendix B—Final Recommendation of Update Factors for Rates of Payment for Inpatient Hospital Services

I. Background

Section 1886(e)(4) of the Act, as amended by section 4002(f) of Pub. L. 100–203, required that the Secretary, taking into consideration the recommendations of ProPAC, recommend an update factor for FY 1989 that takes into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. Section 1886(e)(4) of the Act also applies to the target rate-of-increase limits for hospitals and units excluded from the prospective payment system.

As required by section 1886(e)(5) of the Act, we published the initial recommended FY 1989 update factors that are provided for under section 1886(e)(4) of the Act as Appendix C of the May 27, 1988 proposed rule (at 53 FR 19628).

We recommended that we use the update factors determined by Congress and set forth in section 1886(b)(3)(B)(i) of the Act. (The target rate-of-increase update factor is set forth in section 1886(b)(3)(B)(ii) of the Act.) That is, we recommended update factors of 3.3 percent for prospective payment hospitals in rural areas, 2.8 percent for prospective payment hospitals in large urban areas, 2.3 percent for prospective payment hospitals in other urban areas, and 4.8 percent for hospitals excluded from the prospective payment system. In recommending these increases, we took into account the requirement in section 1886(e)(4) of the Act that the amounts be high enough to ensure the efficient and effective delivery of medically appropriate and necessary care of high quality. In addition, as required by section 1886(e)(4) of the Act, we addressed ProPAC's Recommendations 1 through 5, which concerned updating the standardized amounts and the rate-of-increase limits. Also, we requested public comment on our recommendations.

Under section 1886(e)(5) of the Act, we are also required to provide a final recommendation of appropriate update factors after consideration of public comments. Accordingly, the purpose of this Appendix is to do so.

We note that although we recommended appropriate update factors, requested and received public comments on these recommendations, and are providing final recommendations, Congress actually prescribed the update factors to be used in FY 1989 in section 1886(b)(3)(B)(i) of the Act, as amended by section 4002(a) of Pub. L. 100–203. That is, as explained in the addendum to this final rule, the update factors for FY 1988 for inpatient hospital services for hospitals under the prospective payment system equal the market basket rate of increase forecasted for FY 1989 minus—

- 1.5 percentage points for hospitals located in rural areas;
- 2.0 percentage points for hospitals located in large urban areas; and
- 2.5 percentage points for hospitals located in other urban areas.

The most recent forecasted hospital market basket increase for FY 1989 is 5.4 percent. Therefore, the applicable percentage increases are—

- 3.9 for hospitals located in rural areas;
- 3.4 for hospitals located in large areas; and
- 2.9 for hospitals located in other urban areas.

For cost reporting periods beginning on or after October 1, 1988, section 1886(b)(3)(ii) of the Act, as amended by section 4002(e) of Pub. L. 100–203, provides that the applicable percentage increase for hospitals and units excluded from the prospective payment system equals the market basket rate of increase. Because the most recent forecasted hospital market basket increase for FY 1989 is 5.4 percent, the increase in the hospital's target amount is also 5.4 percent.

We received one item of correspondence during the public comment period concerning our recommendations and our responses to ProPAC recommendations 1 through 5. After consideration of all the arguments presented, we have decided not to change our proposals. Therefore, we recommend update factors of 3.9 percent for prospective payment hospitals in rural areas, 3.4 percent for prospective

payment hospitals in large urban areas, 2.9 percent for prospective payment hospitals in other urban areas, and 5.4 percent for hospitals and units excluded from the prospective payment system.

Comment: One commenter expressed concern that the update factor recommended by the Secretary did not include a discussion or presentation of the data used to form the basis of our recommendation. The commenter noted that ProPAC consistently bases its update recommendations on an analysis of changes in the hospital market basket, productivity, scientific and technological advancement, and case mix. The commenter also noted that the Secretary merely indicated acceptance of the recommendation of the Bipartisan Budget Summit.

Response: As the commenter stated, the Secretary is recommending an update consistent with Bipartisan Budget Summit. We believe this update is reasonable and takes into account the recent decline in Medicare operating margins experienced by the hospital industry. We believe an increase that is somewhat lower than the hospital market basket is appropriate, in order to encourage the hospital industry to control costs and to allow the Medicare program to share in cost savings. We also believe that an approach that gradually takes into account the excessive payments made to the hospital industry during the first two years of operation of the prospective payment system is appropriate and requires that the update factor be less than the increase in the hospital market basket.

[FR Doc. 88-22472 Filed 9-27-88; 2:38 pm]

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federal register

Friday
September 30, 1988

Part V

Environmental Protection Agency

40 CFR Part 716

Health and Safety Data Reporting Period Terminations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPTS-84014B; FRL-3439-9]

Health and Safety Data Reporting Period Terminations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is terminating the reporting periods for 37 chemical substances and 5 chemical categories by amending the sunset dates on the list of substances, mixtures, and categories in the Toxic Substances Control Act (TSCA) section 8(d) model Health and Safety Data Reporting rule, 40 CFR Part 716. Pursuant to 40 CFR 716.65, EPA has reviewed all of the substances listed in § 716.120 and determined that the Agency no longer needs continuing health and safety data reporting on these 37 chemical substances and 5 chemical categories. Persons who believe that EPA should not terminate the reporting requirements for these substances and categories on the section 8(d) model rule may notify EPA and provide their reasons. Additionally, EPA is transferring 34 substances listed as example members of chemical categories from the list of substances found at 40 CFR 716.120(c) to 40 CFR 716.120(a). This will provide EPA with continued reporting for only those specific category members for which the Agency has ongoing health and safety data needs.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern standard time on (insert date 2 weeks after date of publication in the **Federal Register**). [Written comments should be submitted on or before (insert date 30 days after date of publication in the **Federal Register**).] This rule becomes effective on (insert date 90 days after date of publication in the **FEDERAL REGISTER**).

ADDRESSES: Submit written comments, identified by the docket control number "OPTS-84014B," in triplicate to:

TSCA Public Docket Office (TS-793), Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 8(d) of the Toxic Substances Control Act (TSCA), EPA promulgated a model Health and Safety Data Reporting Rule (40 CFR Part 716). The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemical substances and mixtures (henceforth referred to as substances) to submit to EPA copies and lists of unpublished health and safety studies on the listed substances that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decisionmaking.

By adding a substance to Part 716, EPA triggers the section 8(d) model rule's reporting requirements. Past, current, and prospective manufacturers, importers, and processors of the listed substance are required to submit certain information at the time the substance is listed. Further submissions are required of those who later initiate a study of the listed substance or who later propose to manufacture, import, or process the listed substance up to 10 years from the effective date of the rule. The only reporting requirement unaffected by the sunset provision found at § 716.65(a) applies to those manufacturers, importers, and processors who initiate a study on a listed substance before the reporting period terminates. These studies must be submitted upon their completion regardless of the completion date (§ 716.65(c)).

In addition to the 10-year sunset provision to prevent unnecessary reporting burdens, EPA has instituted a biennial review process to identify and terminate the reporting periods for those substances for which the Agency no longer needs continued health and safety data reporting (40 CFR 716.65(b)). Pursuant to this process, the EPA Office of Toxic Substances requested from other EPA offices and certain other Federal agencies all reasonable justifications for retaining each substance or mixture on, or removing each substance or mixture from the list at § 716.120. As a result, EPA has determined that the Agency's health and safety data needs no longer justify continued health and safety data reporting for 37 chemical substances and 5 chemical categories presently listed in the section 8(d) model rule. Amending the reporting sunset date for a substance listed in § 716.120 (a) or (c) to reflect the effective date of this rule terminates the reporting period for the substance. Amending the reporting sunset date for a chemical category listed in § 716.120(c) to reflect the effective date of this rule terminates the reporting period for all those chemicals falling within the definition of the category unless also specifically listed under § 716.120(a). This action eliminates the potential reporting burdens for prospective manufacturers, importers, and processors of the substance, and removes the requirement that current manufacturers, importers, and processors of the substance or category member (substance) must notify EPA whenever they initiate a study of the substance. However, any manufacturer, importer, or processor who initiates a study on the substance before its removal from the 8(d) list must notify EPA of the study's initiation and submit the study upon its completion regardless of the completion date (§ 716.65(c)). For the foregoing reason, EPA is amending the reporting sunset dates for the substances rather than removing all reference to the substances. EPA may at some future date promulgate a rule in which all reference to substances with past sunset dates will be eliminated.

Authority for this action is stated in § 716.65 of the section 8(d) model rule. This section directs the EPA Office of Toxic Substances to conduct a biennial review of all the chemical substances and mixtures listed in § 716.120, and to request from other EPA offices and certain Federal agencies all reasonable justifications for retaining each substance or mixture on, or removing each substance or mixture from, the § 716.120 list. EPA is issuing this action without prior proposal in accordance with 40 CFR 716.65(b). This final rule terminates the reporting periods for 37 substances and 5 categories on the § 716.120 list 90 days following publication of this rule in the **Federal Register.** Persons are invited to comment on the determinations presented in this document. If a reasonable justification is received for requiring continued health and safety data reporting for any of these 37 substances or 5 categories on the section 8(d) model rule, EPA will, by notice published in the **FEDERAL REGISTER,** withdraw the sunset date amendment for the substance or category from the final rule prior to the final rule's effective date.

II. Amendments to 40 CFR 716.120

In order to affect the termination of health and safety data reporting on the chemical substances and categories for which there exists no justification for

continuing reporting, § 716.120 will be amended. Sunset dates for 37 chemical substances will be amended to reflect the effective date of this rule. As previously stated, once a sunset date is reached, the reporting period for the chemical substance is terminated except as provided in § 716.65(c). Fifteen of the substances subject to sunset date amendment are listed in § 716.120(a). These include the following chemical substances:

CAS No.	Substances
100-54-9	3-Pyridinecarbonitrile
111-21-7	Ethylene bisoxyethylene diacetate—Ethanol, 2,2'-[1,2-ethanediylbis(oxy)]bis,-diacetate
121-47-1	Benzenesulfonic acid, 3-amino-
140-66-9	4-(1,1,3,3-Tetramethylbutyl) phenol—Phenol, 4-(1,1,3,3-tetramethylbutyl)-
472-41-3	Phenol, 4-(3,4-dihydro-2,2,4-trimethyl-2*H*-1-benzopyran-4-yl)
563-54-2	1-Propene, 1,2-dichloro-
563-58-6	1-Propene, 1,1-dichloro-
1333-41-1	Methyl pyridine—Pyridine, methyl-
3322-93-8	1,2-Dibromo-4-(1,2-dibromoethyl) cyclohexane—Cyclohexane, 1,2-dibromo-4-(1,2-dibromoethyl)-
18495-30-2	Propane, 1,1,2,3-tetrachloro-
19660-16-3	2-Propenoic acid, 2,3-dibromopropyl ester
26530-20-1	3(2*H*)-isothiazolone, 2-octyl-
61788-33-8	Terphenyl, chlorinated—Polychlorinated *p*-terphenyl
68298-46-4	7-Benzofuranamine, 2,3-dihydro-2,2-dimethyl-
69009-90-1	Diisopropyl biphenyl—1,1'-Biphenyl, bis(1-methylethyl)-

Twenty-two substances falling within definitions of listed categories in § 716.120(c) will have their sunset dates amended to reflect the effective date of this rule. Each of these substances is a member of the category "phenylenediamines." (The sunset date for the category "phenylenediamines" will continue to read "4/29/93.") These substances include the following:

CAS No.	Substances
614-94-8	1,3-Benzenediamine, 4-methoxy-, dihydrochloride
615-46-3	1,4-Benzenediamine, 2-chloro-, dihydrochloride
1197-37-1	1,2-Benzenediamine, 4-ethoxy-
3663-23-8	1,2-Benzenediamine, 4-butyl-
5042-55-7	1,3-Benzenediamine, 5-nitro-
5131-58-8	1,3-Benzenediamine, 4-nitro-
6219-67-6	1,3-Benzenediamine, 4-methoxy-, sulfate
6219-71-2	1,4-Benzenediamine, 2-chloro-, sulfate
6219-77-8	1,2-Benzenediamine, 4-nitro-, dihydrochloride
15872-73-8	Phenol, 2,4-diamino-6-methyl-
18266-52-9	1,4-Benzenediamine, 2-nitro-, dihydrochloride
20103-09-7	1,4-Benzenediamine, 2,5-dichloro-
42389-30-0	1,2-Benzenediamine, 5-chloro-3-nitro-
65879-44-9	Phenol, 4,6-diamino-2-methyl-, hydrochloride
66422-95-5	Ethanol, 2-(2,4-diaminophenoxy)-, dihydrochloride
67801-06-3	1,3-Benzenediamine, 4-ethoxy-, dihydrochloride
68015-98-5	1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1)
68239-80-5	1,3-Benzenediamine, 4-chloro-, sulfate (1:1)
68239-82-7	1,2-Benzenediamine, 4-nitro-, sulfate (1:1)
68239-83-8	1,4-Benzenediamine, 2-nitro-, sulfate (1:1)
68459-98-3	1,2-Benzenediamine, 4-chloro-, sulfate (1:1)
68966-84-7	1,3-Benzenediamine, *ar*-ethyl-*ar*-methyl-

(Neither 1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1) (CAS No. 68015-98-5) nor 1,3-Benzenediamine, *ar*-ethyl-*ar*-methyl- (CAS No. 68966-84-7) was previously specifically listed by name as an example member of the category phenylenediamines.)

Additionally, this rule terminates the health and safety data reporting period for members of 5 chemical categories. (Certain listed example members for which there is a continuing data need are being transferred to § 716.120(a)). Sunset dates for these 5 categories will be amended to reflect the effective date of this rule. These categories and a brief description of each are as follows:

Category Names and Descriptions

Alkyl epoxides—including all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.

Alkyltin compounds.

Chlorinated naphthalenes—chlorinated derivatives of naphthalene (empirical formula) $C_{10}H_xCl_y$ where $x+y=8$.

Ethyltoluenes—This category consists of ethyltoluene (mixed isomers) and the *ortho-*, *meta-* and *para*-isomers.

Halogenated alkyl epoxides—halogenated noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.

From the chemical categories subject to reporting period terminations circumstances exist where there is a continuing need for health and safety data for specific members of the category only, rather than all members of the named category. In these situations, specific members of those chemical categories listed in § 716.120(c) which are subject to the sunset date amendments in this rule will be transferred to § 716.120(a). All reference to these substances will be removed from § 716.120(c). This transfer will allow the Agency to continue receiving health and safety data for the individual substances within a chemical category for which there is an ongoing data need. The transfer of substances from § 716.120(c) to § 716.120(a) as described in this paragraph will result in no

substantive change in reporting requirements for those persons subject to the provisions of Part 716. The substances which are being transferred from § 716.120(c) to § 716.120(a) by this rule are as follows:

CAS No.	Substances
75-21-8	Oxirane
75-56-9	Oxirane, methyl-
77-58-7	Dibutyltin dilaurate—Stannane, dibutylbis[(1-oxododecyl)oxy]-
91-58-7	Naphthalene, 2-chloro-
106-88-7	Oxirane, ethyl-
106-89-8	Oxirane, (chloromethyl)-
428-59-1	Oxirane, trifluoro(trifluoromethyl)-
620-14-4	*m*-Ethyltoluene—Benzene, 1-ethyl-3-methyl
622-96-8	*p*-Ethyltoluene—Benzene, 1-ethyl-4-methyl
930-22-3	Oxirane, ethenyl-
1185-81-5	Dibutyltin bis(lauryl mercaptide)—Stannane, dibutylbis(dodecylthio)-
1321-64-8	Naphthalene, pentachloro-
1321-65-9	Naphthalene, trichloro-
1335-87-1	Naphthalene, hexachloro-
1335-88-2	Naphthalene, tetrachloro-
1464-53-5	2,2'-Bioxirane
1825-30-5	Naphthalene, 1,5-dichloro-
1825-31-6	Naphthalene, 1,4-dichloro-
2050-69-3	Naphthalene, 1,2-dichloro-
2050-72-8	Naphthalene, 1,6-dichloro-
2050-73-9	Naphthalene, 1,7-dichloro-
2050-74-0	Naphthalene, 1,8-dichloro-
2050-75-1	Naphthalene, 2,3-dichloro-
2065-70-5	Naphthalene, 2,6-dichloro-
2198-75-6	Naphthalene, 1,3-dichloro-
2198-77-8	Naphthalene, 2,7-dichloro-
2234-13-1	Naphthalene, octachloro-
3083-25-8	Oxirane, (2,2,2-trichloroethyl)-
7320-37-8	Oxirane, tetradecyl-
18633-25-5	Oxirane, tridecyl-
25168-21-2	Dibutyltin bis(isooctyl maleate)—2-Butenoic acid, 4,4'-[(dibutylstannylene)bis(oxy)]bis[4-oxo-, diisooctyl ester, (Z,Z)-
25550-14-5	Benzene, ethylmethyl (mixed isomers)
25852-70-4	Monobutyltin tris(isooctyl) mercaptoacetate—[(Butylstannylidyne)tris-,(thio)]tris-tri-isoacetyl ester
68081-84-5	Oxirane, mono[(C_{10-16}-alkyloxy)methyl] derivatives

(Oxirane, mono[(C_{10-16}-alkyloxy)methyl] derivatives was not previously listed as an example under § 716.120(c), but is within the definition of the category "alkyl epoxides" listed at § 716.120(c)).

In addition, this rule technically amends § 716.120 to correct errors; to update the section to reflect the addition of 14 substances to § 716.120(a) which were previously added by rule (six effective 12/21/87 (52 FR 44826) and eight effective 6/20/88 (53 FR 18211)); and to delete § 716.120(a)(2) in its entirety. The technical amendments include spelling, punctuation, and typographical corrections.

Currently, under § 716.120(a), there are two lists that contain substances which are subject to the provisions of Part 716. The same substances are found within both lists but are ordered using different criteria. Section 716.120(a)(1) contains a listing in ascending CAS number order, while § 716.120(a)(2) contains an alphabetical listing. Because Chapter 40 of the Code of Federal Regulations will include an alphabetically arranged chemical index starting in 1988 and in every even numbered year that follows, a separate alphabetical listing under § 716.120(a) is unnecessary. Therefore, because of its duplicative nature, § 716.120(a)(2) is being deleted.

Finally, this rule amends the sunset dates of two substances listed as examples under § 716.120(c). These two substances, 1,2-benzenedicarboxylic acid, 2-butoxy-2-oxyethyl butyl ester—butyl glycolyl butyl phthalate (CAS No. 85-70-1), an alkyl phthalate, and ethene, trifluoro- (CAS No. 359-11-5), a fluoroalkene, had their reporting periods under Part 716 terminated by rule, effective January 13, 1986 (50 FR 39677). This rule amends these two example substances' sunset dates to read 1/13/86, the effective date of their reporting period terminations under Part 716. Additionally, this rule relists four substances which were removed from Part 716 by rule (50 FR 39677) effective January 13, 1986. Because the lists appearing at § 716.120 are to be comprehensive in nature, incorporating all the substances, mixtures, and categories which are or have been the subject of reporting under Part 716, these four substances will be added to § 716.120(a) with sunset dates reflecting their January 13, 1986 reporting period terminations. These four substances include ethane, hexachloro- (CAS No. 67-72-1); chlorendic acid—bicyclo[2.2.1]hept-5-ene-2,3-dicarboxylic acid, 1,4,5,6,7,7-hexachloro- (CAS No. 115-28-6); tris (2-chloroethyl) phosphite—ethanol, 2-chloro-, phosphite (3:1) (CAS No. 140-08-9); and trifluoromethylethene—1-propene, 3,3,3-trifluoro- (CAS No. 677-21-4). The amendments referred to in this and the previous two paragraphs affect no change in reporting requirements for those persons subject to the provisions of Part 716.

III. Rulemaking Record

EPA has established a public record for this rulemaking (docket control number OPTS-84014B). This record includes basic information considered by the Agency in developing this rule. EPA will supplement the rulemaking record with additional information as it is received. The record now includes the following:

1. Section 8(d) model Health and Safety Rule Data Reporting Rule (51 FR 32720, amended by 51 FR 41328, 52 FR 16022, 52 FR 19027, 52 FR 44826, and 53 FR 18211).

2. EPA memoranda to program offices requesting comments on substances listed in 40 CFR 716.120.

3. Comments from program offices.

This rulemaking record is available to the public in the TSCA Public Docket

Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located at Rm. NE–G004, 401 M St., SW., Washington, DC.

IV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not major because it will not have an effect of $100 million or more on the economy. It is not anticipated to have a significant effect on competition, costs, or prices.

This rule was submitted to the Office of Management and Budget (OMB) as required under Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule will not have a significant economic impact on a substantial number of small businesses. This determination is based upon this rule's elimination of some prospective reporting burdens.

C. Paperwork Reduction Act

This rule contains no information collection requirements as defined by the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.*, and Controlling Paperwork Burdens on the Public, 5 CFR Part 1320. This rule terminates some existing reporting requirements previously approved by OMB under OMB control number 2070–0004.

List of Subjects in 40 CFR Part 716

Chemicals, Environmental protection, Hazardous substances, Health and safety, Reporting and recordkeeping requirements.

Dated: August 24, 1988.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Part 716 is amended to read as follows:

1. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

2. Section 716.120 is revised to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

Substances listed in this section appear in order by Chemical Abstract Service Registry Number. Chemical mixtures and categories are listed separately and by alphabetical order. Chemical substances listed within a category are provided only as examples of the category, and are not included on the list of substances. When a chemical substance in the substance or category list had been listed previously by a trivial (or common) name, it appears first, followed by the Chemical Abstract Service (CAS) name appearing in the TSCA Chemical Substance Inventory. For chemical substances listed individually under § 716.120(a) and also falling within the definition of a listed category under § 716.120(c), the latest sunset date applies.

(a) *List of substances.* The following chemical substances are subject to all the provisions of Part 716. Manufacturers, importers, and processors of a listed substance are subject to the reporting requirements of Subpart A for that substance.

CAS No.	Substance	Special exemptions	Effective date	Sunset date
62-74-8	Acetic acid, fluoro-, sodium salt		03/07/86	03/07/96
67-63-0	2-Propanol		12/15/86	12/15/96
67-66-3	Methane, trichloro-		06/01/87	06/01/97
67-72-1	Ethane, hexachloro-		04/29/83	01/13/86
71-55-6	1,1,1-Trichloroethane—Ethane, 1,1,1-trichloro-		10/04/82	10/04/92
74-83-9	Methane, bromo-		06/01/87	06/01/97
74-87-3	Chloromethane—Methane, chloro-		10/04/82	10/04/92
74-95-3	Methane, dibromo-		06/01/87	06/01/97
74-97-5	Methane, bromochloro-		06/01/87	06/01/97
75-00-3	Ethane, chloro-		06/01/87	06/01/97
75-02-5	Vinyl fluoride—Ethene, fluoro-		10/04/82	10/04/92
75-04-7	Ethanamine		06/01/87	06/01/97
75-05-8	Acetonitrile		10/04/82	10/04/92
75-09-2	Methylene chloride—Methane, dichloro-		10/04/82	10/04/92
75-12-7	Formamide		04/29/83	04/29/93
75-21-8	Oxirane		10/04/82	10/04/92
75-25-2	Methane, tribromo-		06/01/87	06/01/97
75-27-4	Methane, bromodichloro-		06/01/87	06/01/97
75-29-6	Propane, 2-chloro-		06/01/87	06/01/97
75-34-3	Ethane, 1,1-dichloro-		06/01/87	06/01/97
75-38-7	Vinylidene fluoride—Ethene, 1,1-difluoro-		10/04/82	10/04/92
75-86-5	Propanenitrile, 2-hydroxy-2-methyl-		03/07/86	03/07/96
77-47-4	Hexachlorocyclopentadiene—1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-		10/04/82	10/04/92
77-58-7	Dibutyltin dilaurate—Stannane, dibutylbis[(1-oxododecyl)oxy]-		01/03/83	01/03/93
78-59-1	Isophorone—2-Cyclohexen-1-one, 3,5,5-trimethyl-		10/04/82	10/04/92
78-83-1	1-Propanol, 2-methyl-		03/07/86	03/07/96
78-87-5	1,2-Dichloropropane—Propane, 1,2-dichloro-		10/04/82	10/04/92
78-88-6	1-Propene, 2,3-dichloro-		06/01/87	06/01/97
78-93-3	Methyl ethyl ketone—2-Butanone		10/04/82	10/04/92
78-97-7	Propanenitrile, 2-hydroxy-		06/01/87	06/01/97
78-99-9	Propane, 1,1-dichloro-		03/07/86	03/07/96
79-00-5	Ethane, 1,1,2-trichloro-		06/01/87	06/01/97
79-06-1	Acrylamide—2-Propenamide		10/04/82	10/04/92
79-94-7	Tetrabromobisphenol A—Phenol, 4,4'-(methylethylidene)bis[2,6-dibromo-		06/20/85	06/20/95
80-05-7	Bisphenol A—Phenol, 4,4'-(1-methylethylidene)bis-		06/28/84	06/28/94
80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl		03/07/86	03/07/96
84-65-1	Anthraquinone—9,10-Anthracenedione		12/28/84	12/28/94
85-22-3	Pentabromoethylbenzene—Benzene, pentabromoethyl-		12/28/84	12/28/94
85-68-7	Benzyl butyl phthalate—1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester		04/29/83	04/29/93
86-74-8	9*H*-Carbazole		03/07/86	03/07/96
87-68-3	Hexachloro-1,3-butadiene—1,3-Butadiene, 1,1,2,3,4,4-hexachloro-		10/04/82	10/04/92

CAS No.	Substance	Special exemptions	Effective date	Sunset date
90-42-6	[1,1'-Bicyclohexyl]-2-one		06/01/87	06/01/97
91-08-7	Benzene, 1,3-diisocyanato-2-methyl-		06/01/87	06/01/97
91-20-3	Naphthalene		06/01/87	06/01/97
91-58-7	Naphthalene, 2-chloro-		10/04/82	10/04/92
92-52-4	1,1'-Biphenyl		04/29/83	04/29/93
92-69-3	[1,1'-Biphenyl]-4-ol		06/01/87	06/01/97
92-84-2	10*H*-Phenothiazine		06/01/87	06/01/97
92-87-5	[1,1'-Biphenyl]-4,4'-diamine		06/01/87	06/01/97
95-47-6	*o*-Xylene—Benzene, 1,2-dimethyl-		10/04/82	10/04/92
95-48-7	*o*-Cresol—Phenol, 2-methyl-		10/04/82	10/04/92
95-49-8	2-Chlorotoluene—Benzene, 1-chloro-2-methyl-		04/29/83	04/29/93
95-53-4	Benzenamine, 2-methyl-		03/07/86	03/07/96
95-63-6	1,2,4-Trimethylbenzene—Benzene, 1,2,4-trimethyl-		04/29/83	04/29/93
96-18-4	Propane, 1,2,3-trichloro-		06/01/87	06/01/97
96-29-7	2-Butanone, oxime		12/15/86	12/15/96
96-37-7	Methylcyclopentane—Cyclopentane, methyl-		06/20/85	06/20/95
97-18-7	Phenol, 2,2'-thiobis[4,6-dichloro-		06/01/87	06/01/97
97-23-4	Phenol, 2,2'-methylenebis[4-chloro-		06/01/87	06/01/97
98-01-1	2-Furancarboxaldehyde		06/01/87	06/01/97
98-06-6	Benzene, (1,1-dimethylethyl)-		06/01/87	06/01/97
98-09-9	Benzenesulfonyl chloride		03/07/86	03/07/96
98-51-1	*p-tert*-Butyltoluene—Benzene, 1-(1,1-dimethylethyl)-4-methyl-		06/25/86	06/25/96
98-56-6	4-Chlorobenzotrifluoride—Benzene, 1-chloro-4-(trifluoromethyl)-		04/29/83	04/29/93
98-73-7	*p-tert*-Butylbenzoic acid—Benzoic acid, 4-(1,1-dimethylethyl)-		06/25/86	06/25/96
98-82-8	Cumene—Benzene, (1-methylethyl)-		12/28/84	12/28/94
98-83-9	Benzene, (1-methylethenyl)-		06/01/87	06/01/97
98-95-3	Nitrobenzene—Benzene, nitro-		10/04/82	10/04/92
100-41-4	Benzene, ethyl-		06/19/87	06/19/97
100-48-1	4-Pyridinecarbonitrile		06/01/87	06/01/97
100-54-9	3-Pyridinecarbonitrile		06/01/87	—/—/—
100-70-9	2-Pyridinecarbonitrile		06/01/87	06/01/97
101-68-8	Benzene, 1,1'-methylenebis[4-isocyanato-		06/01/87	06/01/97
101-77-9	Benzenamine, 4,4'-methylenebis-		10/04/82	10/04/92
104-49-4	Benzene, 1,4-diisocyanato-		06/01/87	06/01/97
104-51-8	Benzene, butyl-		06/01/87	06/01/97
104-76-7	1-Hexanol, 2-ethyl-		06/01/87	06/01/97
105-60-2	2*H*-Azepin-2-one, hexahydro-		06/01/87	06/01/97
106-42-3	*p*-Xylene—Benzene, 1,4-dimethyl-		10/04/82	10/04/92
106-43-4	Benzene, 1-chloro-4-methyl-		06/01/87	06/01/97
106-44-5	*p*-Cresol—Phenol, 4-methyl-		10/04/82	10/04/92
106-49-0	Benzenamine, 4-methyl-		03/07/86	03/07/96
106-50-3	*p*-Phenylenediamine—1,4-Benzenediamine		10/04/82	10/04/92
106-51-4	Quinone—2,5-Cyclohexadiene-1,4-dione		10/04/82	10/04/92
106-88-7	Oxirane, ethyl-		10/04/82	10/04/92
106-89-8	Oxirane, (chloromethyl)-		10/04/82	10/04/92
107-06-2	Ethane, 1,2-dichloro-		06/01/87	06/01/97
107-10-8	1-Propanamine		03/07/86	03/07/96
107-19-7	2-Propyn-1-ol		03/07/86	03/07/96
108-05-4	Vinyl acetate—Acetic acid ethenyl ester		02/10/86	02/10/96
108-10-1	Methyl isobutyl ketone—2-Pentanone, 4-methyl-		10/04/82	10/04/92
108-31-6	Maleic anhydride—2,5-Furandione		09/10/84	09/10/94
108-38-3	*m*-Xylene—Benzene, 1,3-dimethyl-		10/04/82	10/04/92
108-39-4	*m*-Cresol—Phenol, 3-methyl-		10/04/82	10/04/92
108-60-1	Propane, 2,2'-oxybis[1-chloro-		06/01/87	06/01/97
108-67-8	1,3,5-Trimethylbenezene—Benzene, 1,3,5-trimethyl-		02/13/84	02/13/94
108-86-1	Benzene, bromo-		06/01/87	06/01/97
108-88-3	Toluene—Benzene, methyl-		10/04/82	10/04/92
108-89-4	4-Methylpyridine—Pyridine, 4-methyl-		09/10/84	09/10/94
108-94-1	Cyclohexanone		10/04/82	10/04/92
108-95-2	Phenol		06/01/87	06/01/97
108-98-5	Benzenethiol		03/07/86	03/07/96
108-99-6	3-Methylpyridine—Pyridine, 3-methyl-		09/10/84	09/10/94
109-06-8	2-Methylpyridine—Pyridine, 2-methyl-		09/10/84	09/10/94
109-77-3	Propanedinitrile		03/07/86	03/07/96
109-87-5	Methane, Dimethoxy-		06/01/87	06/01/97
109-89-7	Ethanamine, *N*-ethyl-		06/01/87	06/01/97
110-75-8	Ethene, (2-chloroethoxy)-		03/07/86	03/07/96
110-82-7	Cyclohexane		12/19/85	12/19/95
110-86-1	Pyridine		10/04/82	10/04/92
111-21-7	Ethylene bisoxyethylene diacetate—Ethanol, 2,2'-[1,2-ethanediylbis(oxy)]bis-, diacetate		01/13/84	—/—/—
111-40-0	Diethylenetriamine—1,2-Ethanediamine, *N*-(2-aminoethyl)-		04/29/83	04/29/93
111-69-3	Hexanedinitrile		06/01/87	06/01/97
111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-		03/07/86	03/07/96
111-92-2	1-Butanamine, *N*-butyl-		06/01/87	06/01/97
112-35-6	Triethyleneglycol monomethyl ether—Ethanol, 2-[2-(2-methoxyethoxy)ethoxy]-		06/20/85	06/20/95
112-50-5	Triethyleneglycol monoethyl ether—Ethanol, 2-[2-(2-ethoxyethoxy)ethoxy]-		06/20/85	06/20/95
112-90-3	Oleylamine—9-Octadecen-1-amine, (*Z*)-		01/13/84	01/13/94
115-28-6	Chlorendic acid—Bicyclo[2.2.1] hept-5-ene-2,3-dicarboxylic acid, 1,4,5,6,7,7-hexachloro-		04/29/83	01/13/86
120-20-7	Anthracene		06/01/87	06/01/97
121-44-8	Ethanamine, *N,N*-diethyl-		01/13/84	01/13/94
121-47-1	Benzenesulfonic acid, 3-amino-		06/01/87	—/—/—

CAS No.	Substance	Special exemptions	Effective date	Sunset date
122-09-8	Benzeneethanamine, α,α-dimethyl-		03/07/86	03/07/96
122-66-7	Hydrazine, 1,2-diphenyl-		06/01/87	06/01/97
122-99-6	2-Phenoxyethanol—Ethanol, 2-phenoxy-		07/01/83	07/01/93
123-31-9	Hydroquinone—1,4-Benzenediol		10/04/84	10/04/94
123-61-5	Benzene, 1,3-diisocyanato-		06/01/87	06/01/97
124-17-4	2-(2-Butoxyethoxy)ethyl acetate—Ethanol, 2-(2-butoxyethoxy)-, acetate		01/13/82	01/13/92
124-48-1	Methane, dibromochloro-		06/01/87	06/01/97
126-73-8	Phosphoric acid, tributyl ester		06/18/86	06/18/96
126-99-8	Chloroprene—1,3-Butadiene, 2-chloro-		12/28/84	12/28/94
127-18-4	Ethene, tetrachloro-		06/01/87	06/01/97
128-39-2	Phenol, 2,6-bis(1,1-dimethylethyl)-		12/19/85	12/19/95
128-86-9	2,6-Anthracenedisulfonic acid, 4,8-diamino-9,10-dihydro-1,5-dihydroxy-9,10-dioxo-		12/21/87	12/21/97
129-00-0	Pyrene		06/01/87	06/01/97
135-98-8	Benzene, (1-methylpropyl)-		06/01/87	06/01/97
137-20-2	Sodium *N*-methyl-*N*-oleoyltaurine—Ethanesulfonic acid, 2-[methyl (1-oxo-9-octadecenyl)amino]-, sodium salt, (*Z*)-.		12/28/84	12/28/94
137-26-8	Thioperoxydicarbonic diamide, tetramethyl-		06/01/87	06/01/97
139-25-3	Benzene, 1,1'-methylenebis[4-isocyanato-3-methyl-		06/01/87	06/01/97
140-08-9	Tris(2-chloroethyl)phosphite—Ethanol, 2-chloro-, phosphite (3:1)		04/29/83	01/13/86
140-66-9	4-(1,1,3,3-Tetramethylbutyl) phenol—Phenol, 4-(1,1,3,3-tetramethylbutyl)-		01/30/83	—/—/—
141-79-7	Mesityl oxide—3-Penten-2-one, 4-methyl-		10/04/82	10/04/92
142-28-9	Propane, 1,3-dichloro-		03/07/86	03/07/96
142-84-7	1-Propanamine, *N*-propyl-		03/07/86	03/07/96
143-22-6	Triethyleneglycol monobutyl ether—Ethanol, 2-[-2-(2-butoxyethoxy)ethoxy]-		06/20/85	06/20/95
149-30-4	Mercaptobenzothiazole—2(3*H*-Benzothiazolethione		12/28/84	12/28/94
149-57-5	2-Ethylhexanoic acid—Hexanoic acid, 2-ethyl-		06/28/84	06/28/94
328-84-7	3,4-Dichlorobenzotrifluoride—Benzene, 1,2-dichloro-4-(trifluoromethyl)-		05/08/85	05/08/95
357-57-3	Strychnidin-10-one, 2,3-dimethoxy-		03/07/86	03/07/96
428-59-1	Oxirane, trifluoro(trifluoromethyl)-		10/04/82	10/04/92
472-41-3	Phenol, 4-(3,4-dihydro-2,2,4-trimethyl-2*H*-1-benzopyran-4-yl)-		06/01/87	—/—/—
506-96-7	Acetyl bromide		06/01/87	06/01/97
526-73-8	1,2,3-Trimethylbenzene—Benzene, 1,2,3-trimethyl-		02/13/84	02/13/94
530-50-7	Hydrazine, 1,1-diphenyl-		06/01/87	06/01/97
534-07-6	2-Propanone, 1,3-dichloro-		06/01/87	06/01/97
540-54-5	Propane, 1-chloro-		06/01/87	06/01/97
540-84-1	Pentane, 2,2,4-trimethyl-		06/01/87	06/01/97
542-75-6	1-Propene, 1,3-dichloro-		06/01/87	06/01/97
556-67-2	Octamethylcyclotetrasiloxane—Cyclotetrasiloxane, octamethyl-		12/28/84	12/28/94
563-54-2	1-Propene, 1,2-dichloro-		03/07/86	—/—/—
563-58-6	1-Propene, 1,1-dichloro-		03/07/86	—/—/—
580-51-8	[1,1'-Biphenyl]-3-ol		06/01/87	06/01/97
584-84-9	Benzene, 2,4-diisocyanato-1-methyl-		06/01/87	06/01/97
591-08-2	Acetamide, *N*-(aminothioxomethyl)-		03/07/86	03/07/96
594-20-7	Propane, 2,2-dichloro-		03/07/86	03/07/96
598-21-0	Acetyl bromide, bromo-		06/01/87	06/01/97
598-31-2	2-Propanone, 1-bromo-		03/07/86	03/07/96
616-23-9	1-Propanol, 2,3-dichloro-		03/07/86	03/07/96
620-14-4	*m*-Ethyltoluene—Benzene, 1-ethyl-3-methyl-		04/29/83	04/29/93
622-96-8	*p*-Ethyltoluene—Benzene, 1-ethyl-4-methyl-		04/29/83	04/29/93
630-20-6	Ethane, 1,1,1,2-tetrachloro-		06/01/87	06/01/97
646-06-0	1,3-Dioxolane		01/03/83	01/03/93
677-21-4	Trifluoromethylethene—1-Propene, 3,3,3-trifluoro-		04/29/83	01/13/86
685-91-6	Acetamide, *N,N*-diethyl-		06/01/87	06/01/97
692-42-2	Arsine, diethyl-		03/07/86	03/07/96
696-28-6	Arsonous dichloride, phenyl-		03/07/86	03/07/96
757-58-4	Tetraphosphoric acid, hexaethyl ester		03/07/86	03/07/96
812-03-3	Propane, 1,1,1,2-tetrachloro-		06/01/87	06/01/97
822-06-0	Hexane, 1,6-diisocyanato-		06/01/87	06/01/97
828-00-2	1,3-Dioxan-4-ol, 2,6-dimethyl-, acetate		06/01/87	06/01/97
930-22-3	Oxirane, ethenyl-		10/04/82	10/04/92
939-97-9	*p-tert*-Butylbenzaldehyde—Benzaldehyde, 4-(1,1-dimethylethyl)-		06/25/86	06/25/96
1000-82-4	Methylolurea—Urea, (hydroxymethyl)-		07/01/83	07/01/93
1070-78-6	Propane, 1,1,1,3-tetrachloro-		06/01/87	06/01/97
1185-81-5	Dibutyltin bis(lauryl mercaptide)—Stannane, dibutylbis(dodecylthio)		01/03/83	01/03/93
1208-52-2	Benzenamine, 2-[(4-aminophenyl)methyl]-		06/01/87	06/01/09
1300-71-6	Phenol, dimethyl-		06/01/87	06/01/97
1309-64-4	Antimony trioxide		10/04/82	10/04/92
1321-38-6	Benzene, diisocyanatomethyl-(unspecified isomer)		06/01/87	06/01/97
1321-64-8	Naphthalene, pentachloro-		10/04/82	10/04/92
1321-65-9	Naphthalene, trichloro-		10/04/82	10/04/92
1331-47-1	[1,1'-Biphenyl]-4,4'-diamino, dichloro-		06/01/87	06/01/97
1333-41-1	Methyl pyridine—Pyridine, methyl-		09/10/84	—/—/—
1335-87-1	Naphthalene, hexachloro-		10/04/82	10/04/92
1335-88-2	Naphthalene, tetrachloro-		10/04/82	10/04/92
1345-04-6	Antimony trisulfide		10/04/82	10/04/92
1464-53-5	2,2'-Bioxirane		10/04/82	10/04/92
1634-04-4	Propane, 2-methoxy-2-methyl-		12/15/86	12/15/96
1825-30-5	Naphthalene, 1,5-dichloro-		10/04/82	10/04/92
1825-31-6	Naphthalene, 1,4-dichloro-		10/04/82	10/04/92
1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-		03/07/86	03/07/96
2050-69-3	Naphthalene, 1,2-dichloro-		10/04/82	10/04/92

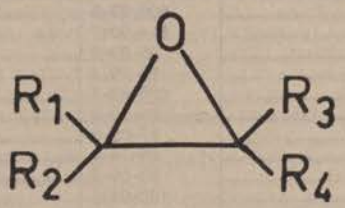
CAS No.	Substance	Special exemptions	Effective date	Sunset date
2050-72-8	Naphthalene, 1,6-dichloro-		10/04/82	10/04/92
2050-73-9	Naphthalene, 1,7-dichloro-		10/04/82	10/04/92
2050-74-0	Naphthalene, 1,8-dichloro-		10/04/82	10/04/92
2050-75-1	Naphthalene, 2,3-dichloro-		10/04/82	10/04/92
2065-70-5	Naphthalene, 2,6-dichloro-		10/04/82	10/04/92
2198-75-6	Naphthalene, 1,3-dichloro-		10/04/82	10/04/92
2198-77-8	Naphthalene, 2,7-dichloro-		10/04/82	10/04/92
2234-13-1	Naphthalene, octachloro-		10/04/82	10/04/92
2536-05-2	Benzene, 1,1'-methylenebis[2-isocyanato-		06/01/87	06/01/97
2556-36-7	Cyclohexane, 1,4-diisocyanato		06/01/87	06/01/97
2763-96-4	3(2*H*)-Isoxazolone, 5-(aminomethyl)-		03/07/86	03/07/96
2778-42-9	Benzene, 1,3-bis(1-isocyanato-1-methylethyl-		06/01/87	06/01/97
2861-02-1	2,6-Anthracenedisulfonic acid, 4,8-diamino-9,10-dihydro-1,5-dihydroxy-9,10-dioxo-, disodium salt.		12/21/87	12/21/97
3083-25-8	Oxirane, (2,2,2-trichloroethyl)-		10/04/82	10/04/92
3173-72-6	Naphthalene, 1,5,-diisocyanato-		06/01/87	06/01/97
3288-58-2	Phosphorodithioic acid, *O,O*-diethyl-*S*-methyl ester		03/07/86	03/07/96
3296-90-0	1,3-Propanediol, 2,2-bis(bromomethyl)-		06/01/87	06/01/97
3319-31-1	Tris(2-ethylhexyl) trimellitate—1,2,4-Benzenetricarboxylic acid, tris(2-ethylhexyl)ester		01/03/83	01/03/93
3322-93-8	1,2-Dibromo-4-(1,2-dibromoethyl) cyclohexane—Cyclohexane, 1,2-dibromo-4-(1,2-dibromoethyl)-.		06/28/84	—/—/—
3389-71-7	1,2,3,4,7,7-Hexachloronorbornadiene—Bicyclo[2.2.1]hepta-2,5-diene, 1,2,3,4,7,7-hexachloro-		01/13/84	01/13/94
3618-72-2	Acetamide, *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4- methoxyphenyl]-.		06/19/87	06/19/97
3618-73-3	Acetamide, *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxyphenyl]-.		06/19/87	06/19/97
3956-55-6	Acetamide, *N*-[5-[bis[2-(acetyloxy)ethyl]-amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl.		12/15/86	12/15/96
4098-71-9	Cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-		06/01/87	06/01/97
4170-30-3	2-Butenal		03/07/86	03/07/96
5124-30-1	Cyclohexane, 1,1'-methylenebis[4-isocyanato-		06/01/87	06/01/97
5344-82-1	Thiourea, (2-chlorophenyl)-		03/07/86	03/07/96
5873-54-1	Benzene, 1-isocyanato-2-[4-isocyanatophenyl)methyl]-		06/01/87	06/01/97
6247-34-3	2-Anthracenesulfonic acid, 4-[[4-(acetylamino)phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-.		12/21/87	12/21/97
6422-86-2	Bis(2-ethylhexyl) terephthalate—1,4-Benzenelcarboxylic acid, bis(2-ethylhexyl) ester		01/03/83	01/03/93
6424-85-7	2-Anthracenesulfonic acid, 4-[[4-(acetyl-amino)phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-, monosodium salt.		12/21/87	12/21/97
7320-37-8	Oxirane, tetradecyl-		10/04/82	10/04/92
7390-81-0	Oxirane, hexadecyl-		10/04/82	10/04/92
7440-28-0	Thallium		06/01/87	06/01/97
7440-36-0	Antimony		10/04/82	10/04/92
7440-48-4	Cobalt		06/01/87	06/01/97
9011-05-6	Urea, polymer with formaldehyde	§ 716.20(b)(1) applies	06/03/85	06/03/95
9016-87-9	Isocyanic acid, polymethylenepolyphenylene ester		06/01/87	06/01/97
10347-54-3	Cyclohexane, 1,4-bis(isocyanatomethyl)-		06/01/87	06/01/97
10436-39-2	1-Propene, 1,1,2,3-tetrachloro-		06/01/87	06/01/97
12001-85-3	Naphthenic acids, zinc salts		06/01/87	06/01/97
12217-79-7	9,10-Anthracenedione, 1,5-diaminochloro-4,8-dihydroxy-		12/21/87	12/21/97
13414-54-5	Methallyl 2-nitrophenyl ether—Benzene, 1-[(2-methyl-2-propenyl)oxy]-2-nitro-		02/13/84	02/13/94
13414-55-6	7-Nitro-2,2-dimethyl-2,3-dihydrobenzofuran—Benzofuran, 2,3-dihydro-2,2-dimethyl-7-nitro-		02/13/84	02/13/94
15646-96-5	Hexane, 1,6-diisocyanato-2,4,4-trimethyl-		06/01/87	06/01/97
16938-22-0	Hexane, 1,6-diisocyanato-2,2,4-trimethyl-		06/01/87	06/01/97
17418-58-5	9,10-Anthracenedione, 1-amino-4-hydroxy-2-phenoxy-		12/21/87	12/21/97
18495-30-2	Propane, 1,1,2,3-tetrachloro-		06/01/87	—/—/—
18633-25-5	Oxirane, tridecyl-		10/04/82	10/04/92
19660-16-3	2-Propenoic acid, 2,3-dibromopropyl ester		06/01/87	—/—/—
21429-43-6	Acetamide, *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxyphenyl]-.		06/19/87	06/19/97
25168-21-2	Dibutyltin bis (isooctyl maleate)—2-Butenoic acid, 4,4'-[(dibutylstannylene)bis(oxy)]bis-[4-oxo-, diisoctyl ester, (*Z,Z*)-.		01/03/83	01/03/93
25550-14-5	Benzene, ethylmethyl- (mixed isomers)		04/29/83	04/29/93
25550-98-5	Phosphorous acid, diisodecyl phenyl ester		12/19/85	12/19/95
25551-13-7	Trimethylbenzene—Benzene, trimethyl- (mixed isomers)		02/13/84	02/13/94
25640-78-2	Isopropyl biphenyl—1,1'-Biphenyl, (1-methylethyl)-		06/28/84	06/28/94
25852-70-4	Monobutyltin tris (isooctyl) mercaptoacetate—Acetic acid, 2,2',2''-[(butylstannylidyne)tris(thio)]tris-, triisooctyl ester.		01/03/83	01/03/93
26447-40-5	Benzene, 1,1'-methylenebis[isocyanato-		06/01/87	06/01/97
26471-62-5	Benzene, 1,3-diisocyanatomethyl-		06/01/87	06/01/97
26530-20-1	3(2*H*)-Isothiazolone, 2-octyl-		06/01/87	—/—/—
26952-23-8	1-Propene, dichloro-		06/01/87	06/01/97
32052-51-0	Isocyanic acid, trimethylcyclohexyl ester		06/01/87	06/01/97
38661-72-2	Cyclohexane, 1,3-bis(isocyanatomethyl)-		06/01/87	06/01/97
61788-33-8	Terphenyl, chlorinated		10/04/82	—/—/—
61789-36-4	Calcium naphthenate—Naphthenic acids, calcium salts		07/01/83	07/01/93
61789-51-3	Cobalt naphthenate—Naphthenic acids, cobalt salts		07/01/83	07/01/93
61790-14-5	Lead naphthenate—Naphthenic acids, lead salts		07/01/83	07/01/93
68081-84-5	Oxirane, mono[(C_{10-16}-alkyloxy) methyl] derivatives		10/04/82	10/04/92
68122-86-1	Imidazolium compounds, 4,5-dihydro-1-methyl-2-nortallow alkyl-1-[2-tallow amidoethyl), methyl sulfates.		06/20/88	06/20/98

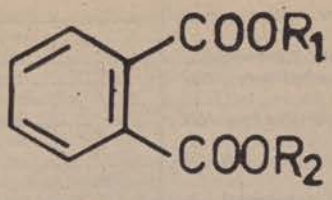
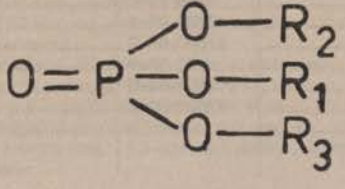
CAS No.	Substance	Special exemptions	Effective date	Sunset date
68153-35-5	Ethanaminium, 2-amino-*N*-(2-aminoethyl-*N*-(2-hydroxyethyl)-*N*-methyl-, *N,N'*-ditallow acyl derivatives, methyl sulfates (salts).		06/20/88	06/20/98
68298-46-4	7-Amino-2,2-dimethyl-2,3-dihydrobenzofuran—7-Benzofuranamine,2,3-dihydro-2,2-dimethyl-		02/13/84	—/—/—
68389-88-8	Poly(oxy-1,2-ethanediyl), α-[2-[bis(2-aminoethyl)methylammonio]ethyl]-ω-hydroxy-, *N,N'*-dicoco acyl derivatives, methyl sulfates (salts).		06/20/88	06/20/98
68389-89-9	Poly(oxy-1,2-ethanediyl), α-[2-[bis(2-aminoethyl)methylammonio]ethyl]-ω-hydroxy-,*N,N'*-bis(hydrogenated tallow acyl) derivatives, methyl sulfates (salts).		06/20/88	06/20/98
68410-69-5	Poly(oxy-1,2-ethanediyl), α-[2-[bis(2-aminoethyl)methylammonio]ethyl]-ω-hydroxy,- *N,N'*-ditallow acyl derivatives, methyl sulfates (salts).		06/20/88	06/20/98
68413-04-7	Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[bis(2-aminoethyl)methylammonio] methylethyl]-ω-hydroxy-, *N,N'*-ditallow acyl derivatives, methyl sulfates (salts).		06/20/88	06/20/98
68554-06-3	Poly(oxy-1,2-ethanediyl), α-[3-[bis(2-aminoethyl)methylammonio]-2-hydroxypropyl]-ω-hydroxy-, *N*-coco acyl derivatives, methyl sulfates (salts).		06/20/98	06/20/88
68611-64-3	Urea, reaction products with formaldehyde	§ 716.20(b)(1) applies	06/03/85	06/03/95
69009-90-1	Diisopropyl biphenyl—1,1'-Biphenyl, bis(1-methylethyl)-		06/28/84	—/—/—
70914-09-9	Poly(oxy-1,2-ethanediyl), α-[2-[bis(2-aminoethyl)methylammonio]ethyl]-ω-hydroxy-, *N,N'*-di[C_{14-18} acyl] derivatives, methyl sulfates (salts).		06/20/88	06/20/98
75790-84-0	Benzene, 2-isocyanato-4-[(4-isocyanatophenyl)methyl]-1-methyl-		06/01/87	06/01/97
75790-87-3	Benzene, 1-isocyanato-2-[(4-isocyanatophenyl)thio]-		06/01/87	06/01/97

(b) *Listed mixtures.* The following listed mixtures are subject to all the provisions of Part 716. Manufacturers, importers, and processors of a listed mixture are subject to the reporting requirements of Subpart A for that mixture.

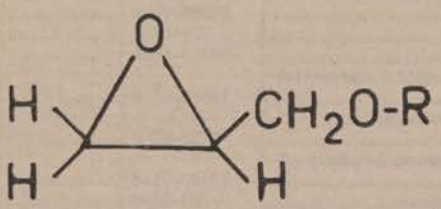
Mixture	CAS No.	Special exemptions	Effective date	Sunset date
Aromatic C_9 fraction from petroleum refining: The C_9 fraction is primarily composed of:			02/13/84	02/13/94
o-Ethyltoluene—(Benzene, 1-ethyl-2-methyl-)	611-14-3			
m-Ethyltoluene—(Benzene, 1-ethyl-3-methyl-)	620-14-4			
p-Ethyltoluene—(Benzene, 1-ethyl-4-methyl-)	622-96-8			
Ethyltoluene—(Benzene, ethylmethyl-) (mixed isomers)	25550-14-5			
Trimethylbenzenes (mixed)—(Benzenes, trimethyl-)	25551-13-7			
1,2,3-Trimethylbenzene—(Benzene, 1,2,3-trimethyl-)	526-73-8			
1,2,4-Trimethylbenzene—(Benzene, 1,2,4-trimethyl-)	95-63-6			
1,3,5-Trimethylbenzene—(Benzene, 1,3,5-trimethyl-)	108-67-8			

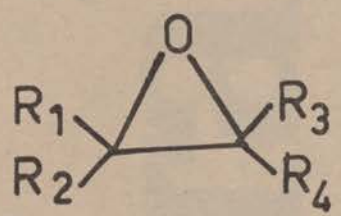
(c) *By category.* The following categories are listed in alphabetical order. Chemical substances listed within a category are provided only as examples of the category. Manufacturers, importers, and processors of any chemical substance within a category are subject to the reporting requirements of Subpart A for that category, except when the sunset date for the particular substance predates the sunset date for the category, or when the exemption of § 716.20(b) of this Part applies.

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
Alkyl epoxides—including all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.			10/04/82	—/—/—
				
R_1=R_2=R_3=R_4=H or alkyl. Groups R_1–R_4 may contain one or more epoxide functions.				
Oxirane, decyl-	2855-19-8		10/04/82	—/—/—
Oxirane, 2,2-dimethyl-	558-30-5		10/04/82	—/—/—
Oxirane, 2,3-dimethyl-	3266-23-7		10/04/82	—/—/—
Oxirane, dodecyl	3234-28-4		10/04/82	—/—/—
Oxirane, heptadecyl-	67860-04-2		10/04/82	—/—/—
Oxirane, methyl-	75-56-9		10/04/82	—/—/—
Oxirane, octyl-	2404-44-6		10/04/82	—/—/—
Oxirane, pentadecyl-	22092-38-2		10/04/82	—/—/—
Alkyl phthalates—all alkyl esters of 1,2-benzenedicarboxylic acid (*ortho*-phthalic acid)			10/04/82	10/04/92

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
				
$R_1 = R_2$ = alkyl.				
1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester	117-81-7		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, bis(1-methylheptyl) ester	131-15-7		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, bis(2-methylpropyl) ester	84-69-5		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, 2-butoxy-2-oxyethyl butyl ester	85-70-1		10/04/82	01/13/86
1,2-Benzenedicarboxylic acid, butyl cyclohexyl ester	84-64-0		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, butyl 2-ethylhexyl ester	85-69-8		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, butyl octyl ester	84-78-6		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, decyl hexyl ester	25724-58-7		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, decyl octyl ester	119-07-3		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, dibutyl ester	84-74-2		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, dicyclohexyl ester	84-61-7		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, diethyl ester	84-66-2		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, dihexyl ester	84-75-3		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, diisodecyl ester	26761-40-0		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, diisononyl ester	28553-12-0		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, diisooctyl ester	27554-26-3		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, demethyl ester	131-11-3		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, dinonyl ester	84-76-4		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, dioctyl ester	117-84-0		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, ditridecyl ester	119-06-2		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, diundecyl ester	3648-20-2		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, 2-ethylhexyl-8-methylnonyl ester	89-13-4		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, hexyl isodecyl ester	61702-81-6		10/04/82	10/04/92
1,2-Benzenedicarboxylic acid, isodecyl tridecyl ester	61886-60-0		10/04/82	10/04/92
Alkyltin compounds			01/03/83	—/—/—
Dibutyltin *S,S'*-bis(isooctyl mercaptoacetate)—Acetic acid, 2,2'-[(dibutylstannylene)bis(thio)]bis-, diisooctyl ester	25168-24-5		01/03/83	—/—/—
Dibutyltin *S,S'*-bis(isooctyl mercaptoacetate)—Acetic acid, 2,2'-[(dimethylstannylene)bis(thio)]bis-, diisooctyl ester	26636-91-1		01/03/83	—/—/—
Monomethyltin tris(isooctyl mercaptoacetate)—Acetic acid, 2,2',2''-[(methylstannylidyne)tris (thio)]tris-, triisooctyl ester	54849-38-6		01/03/83	—/—/—
Aniline and chloro-, bromo-, and/or nitroanilines			10/04/82	10/04/92
Benzenamine	62-53-3		10/04/82	10/04/92
Benzenamine, 4-bromo-	106-40-1		10/04/82	10/04/92
Benzenamine, 2-bromo-6-chloro-4-nitro-	99-29-6		10/04/82	10/04/92
Benzenamine, 2-bromo-4,6-dinitro-	1817-73-8		10/04/82	10/04/92
Benzenamine, 2-chloro-	95-51-2		10/04/82	10/04/92
Benzenamine, 3-chloro-	108-42-9		10/04/82	10/04/92
Benzenamine, 4-chloro-	106-47-8		10/04/82	10/04/92
Benzenamine, 2-chloro-4,6-dinitro-	3531-19-9		10/04/82	10/04/92
Benzenamine, 4-chloro-2,6-dinitro-	5388-62-5		10/04/82	10/04/92
Benzenamine, 3-chloro-, hydrochloride	141-85-5		10/04/82	10/04/92
Benzenamine, 2-chloro-4-nitro-	121-87-9		10/04/82	10/04/92
Benzenamine, 2-chloro-5-nitro-	6283-25-6		10/04/82	10/04/92
Benzenamine, 4-chloro-2-nitro-	89-63-4		10/04/82	10/04/92
Benzenamine, 4-chloro-3-nitro-	635-22-3		10/04/82	10/04/92
Benzenamine, 2,6-dibromo-4-nitro-	827-94-1		10/04/82	10/04/92
Benzenamine, 2,3-dichloro-	608-27-5		10/04/82	10/04/92
Benzenamine, 2,4-dichloro-	554-00-7		10/04/82	10/04/92
Benzenamine, 2,5-dichloro-	95-82-9		10/04/82	10/04/92
Benzenamine, 3,4-dichloro-	95-76-1		10/04/82	10/04/92
Benzenamine, 3,5-dichloro-	626-43-7		10/04/82	10/04/92
Benzenamine, 2,6-dichloro-4-nitro-	99-30-9		10/04/82	10/04/92
Benzenamine, 2,4-dinitro-	97-02-9		10/04/82	10/04/92
Benzenamine, 2-nitro-	88-74-4		10/04/82	10/04/92
Benzenamine, 3-nitro-	99-09-2		10/04/82	10/04/92
Benzenamine, 4-nitro-	100-01-6		10/04/82	10/04/92
Benzenamine, 2,4,6-tribromo-	147-82-0		10/04/82	10/04/92
Benzenamine, 2,4,6-trichloro-	634-93-5		10/04/82	10/04/92
Aryl phosphates—phosphate esters of phenol or of alkyl-substituted phenols. Triaryl and mixed alkyl and aryl esters are included but trialkyl esters are excluded			10/04/82	10/04/92
				

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
R_1=phenyl, either unsubstituted or substituted with one or more alkyl or aralkyl groups R_2=R_3 alkyl; or phenyl, either unsubstituted or substituted with one or more alkyl or aralkyl groups				
Phenol, dimethyl-, phosphate (3:1)	25155-23-1		10/04/82/	10/04/92
Phenol, 4-(1,1-dimethylethyl)-, phosphate (3:1)	78-33-1		10/04/82/	10/04/92
Phosphoric acid, dibutyl phenyl ester	2528-36-1		10/04/82/	10/04/92
Phosphoric acid, diisodecyl phenyl ester	51363-64-5		10/04/82/	10/04/92
Phosphoric acid, (1,1-dimethylethyl) phenyl diphenyl ester	56803-37-3		10/04/82/	10/04/92
Phosphoric acid, 2-ethylhexyl diphenyl ester	1241-94-7		10/04/82/	10/04/92
Phosphoric acid, isodecyl diphenyl ester	29761-21-5		10/04/82/	10/04/92
Phosphoric acid, (1-methylethyl)phenyl diphenyl ester	28108-99-8		10/04/82	10/04/92
Phosphoric acid, methylphenyl diphenyl ester	26444-49-5		10/04/82	10/04/92
Phosphoric acid, (1-methyl-1-phenylethyl)phenyl diphenyl ester	34364-42-6		10/04/82	10/04/92
Phosphoric acid, triphenyl ester	115-86-6		10/04/82	10/04/92
Phosphoric acid, tris(methylphenyl) ester	1330-78-5		10/04/82	10/04/92
Phosphoric acid, tris(2-methylphenyl) ester	78-30-8		10/04/82	10/04/92
Phosphoric acid, tris(3-methylphenyl) ester	563-04-2		10/04/82	10/04/92
Phosphoric acid, tris(4-methylphenyl) ester	78-32-0		10/04/82	10/04/92
Asbestos—asbestiform varieties of chrysolite (serpentine); crocidolite (riebeckite); amosite (cummingtonite—grunerite); anthophyllite; tremolite; and actinolite.			10/04/82	10/04/92
Asbestos	1332-21-4		10/04/82	10/04/92
Asbestiform minerals	12001-29-5		10/04/82	10/04/92
Asbestiform minerals	12172-73-5		10/04/82	10/04/92
Asbestiform minerals	17068-78-9		10/04/82	10/04/92
Bisazobiphenyl dyes derived from benzidine and its congeners, *ortho*-toluidine (dimethylbenzidine) and dianisidine (dimethoxybenzidine).			10/04/82	10/04/92
Benoic acid, 2-[[2-amino-6-[[4'-[(3-carboxy-4-hydroxphenyl) azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-5-hydroxy-7-sulfo-1-naphthalenyl]azo]-5-nitro-, trisodium salt	6739-62-4		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[2-amino-8-hydroxy-6-sulfo-1-naphthalenyl) azo] [1,1'-biphenyl]-4-yl]-azo]-2-hydroxy-, disodium salt	2429-84-7		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)azo] [1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt	2429-82-5		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[(1-amino-4-sulfo-2-naphthalenyl)azo] [1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt	2429-79-0		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[[2,6-diamino-3-[[8-hydroxy-3,6-disulfo-7-[(4-sulfo-1-naphthalenyl)azo]-2-naphthalenyl]azo]-5-methylphenyl]azo] [1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, tetrasodium salt	2429-81-4		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[(2,6-diamino-3-methyl-5-sulfophenyl)azo]-3,3'-dimethyl[1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt	6637-88-3		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[[2,6-diamino-3-methyl-5-[(4-sulfophenyl)azo]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt	2586-58-5		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[[2,6-diamino-3-methyl-5-[(4-sulfophenyl)azo]phenyl]azo]1,1'-biphenyl]-4-yl]azo]-2-hydroxy-3-methyl-, disodium salt	6360-54-9		10/04/82	10/04/92
Benzoic acid, 5-[[4'-[[2,4-dihydroxy-3-[(4-sulfophenyl)azo]phenyl]azo] [1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt	2893-80-3		10/04/82	10/04/92
Benzoic acid, 3,3'-[(3,7-disulfo-1,5-naphthalene-diyl)bis[azo(6-hydroxy-3,1-phenylene)azo[6(or 7)-sulfo-4,1-naphthalenediyl]azo[1,1'-biphenyl]-4,4'-diylazo]]bis[6-hydroxy-, hexasodium salt	8014-91-3		10/04/82	10/04/92
[1,1'-Biphenyl]-4,1'-bis (diazonium), 3,3'-dimethoxy-	20282-70-6		10/04/82	10/04/92
Butanamide, *N,N'*-(3,3'-dimethyl [1,1'-biphenyl]-4,4'-diyl)bis[3-oxo-	91-96-3		10/04/82	10/04/92
C.I. Direct Blue 218	10401-50-0		10/04/82	10/04/92
Cuprate(2-), [5-[[4'-[[2,6-dihydroxy-3-[(2-hydroxy-5-sulfophenyl)azo]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxybenzoato(4-)]-, disodium	16071-86-6		10/04/82	10/04/92
Cuprate(3-), [μ-[7-[[3,3'-dihydroxy-4'-[[1-hydroxy-6-(phenylamino)-3-sulfo-2-naphthalenyl]azo] [1,1'-biphenyl]-4-yl]azo]-8-hydroxy-1,6-naphthalenedisulfonato(7-)]]di-, trisodium	6656-03-7		10/04/82	10/04/92
Cuprate(4-), [μ-[[6,6'-[3,3'-dihydroxy[1,1'-biphenyl]-4-4'-diyl)bis(azo)]bis[4-amino-5-hydroxy-1,3-naphthalendisulfonato]](8-)]]di-, tetrasodium	16143-79-6		10/04/82	10/04/92
2-Naphthalenecarboxamide, *N,N'*-(3,3'-dimethoxy[1,1'-biphenyl]-4,4'-diyl)bis[3-hydroxy-	91-92-9		10/04/82	10/04/92
1,3-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-[[4'-[(2-hydroxy-1-naphthalenyl)azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-, disodium salt	2586-57-4		10/04/82	10/04/92
1,3-Naphthalenedisulfonic acid, 6,6'-[(3,3'-dimethoxy[1,1'-biphenyl]-4,4'diyl)bis(azo)]bis[4-amino-5-hydroxy-, tetrasodium salt	2610-05-1		10/04/82	10/04/92
1,3-Naphthalenedisulfonic acid, 8-[[4'-[(4-ethoxyphenyl)azo] [1,1'-biphenyl]-4-yl]azo]-7-hydroxy-, disodium salt	3530-19-6		10/04/82	10/04/92
1,3-Naphthalenedisulfonic acid, 8-[[4'-[4-ethoxyphenyl)azo]-3,3'-dimethyl] [1,1'-biphenyl]-4-yl]azo]-7-hydroxy-, disodium salt	6358-29-8		10/04/82	10/04/92
1,3-Naphthalenedisulfonic acid, 7-hydroxy-8-[[4'-[[4-[[(4-methylphenyl) sulfonyl]oxy]phenyl]-azo] [1,1'-biphenyl]-4-yl]azo]-, disodium salt	3567-65-5		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 5-amino-3-[[4'-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)-azo] [1,1'-biphenyl]-4-yl]azo]-4-hydroxy-, trisodium salt	2429-73-4		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4'-[(2,4-diamino-5-methylphenyl)azo] [1,1'-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt	2429-83-6		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4'-[(2,4-diaminophenyl)azo] [1,1'-biphenyl]-4-yl]azo] 5-hydroxy-6-(phenylazo)-, disodium salt	1937-37-7		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-6[[4'-[(4-hydroxyphenyl)azo] [1,1'-biphenyl]-4-yl]-azo]-3-[(4-nitrophenyl)azo]-, disodium salt	4335-09-5		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-3-[[4'-[(4-hydroxyphenyl)azo] [1,1'-biphenyl]-4-yl]azo)-6-(phenylazo)-, disodium salt	3626-28-6		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 3,3'-[[1,1'-biphenyl]-4,4'-diylbis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt	2602-46-2		10/04/82	10/04/92

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethoxy[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt	2429-74-5		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt	72-57-1		10/04/82	10/04/92
2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis-[4,5-dihydroxy-, tetrasodium salt	2150-54-1		10/04/82	10/04/92
1-Naphthalenesulfonic acid, 3-[[4'[(6-amino-1-hydroxy-3-sulfo-2-naphthalenyl)azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-4-hydroxy-, disodium salt	6449-35-0		10/04/82	10/04/92
1-Naphthalenesulfonic acid, 3,3'-[[1,1'-biphenyl]-4,4'-diyl-4,4'-diyl)bis(azo)]bis[(4-amino-,disodium salt	573-58-0		10/04/82	10/04/92
1-Naphthalenesulfonic acid, 3,3'-[3,3'-dimethoxy-[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[4-hydroxy-, disodium salt	2429-71-2		10/04/82	10/04/92
1-Naphthalenesulfonic acid, 3,3'-[(3,3'dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[4-amino-,disodium salt	992-59-6		10/04/82	10/04/92
Chlorinated benzenes, mono-, di-, tri-, tetra-, and penta-			10/04/82	10/04/92
Benzene, chloro-	108-90-7		10/04/82	10/04/92
Benzene, 1,2-dichloro-	95-50-1		10/04/82	10/04/92
Benzene, 1,3-dichloro-	541-73-1		10/04/82	10/04/92
Benzene, 1,4-dichloro-	106-46-7		10/04/82	10/04/92
Benzene, pentachloro-	608-93-5		10/04/82	10/04/92
Benzene, 1,2,3,4-tetrachloro-	634-66-2		10/04/82	10/04/92
Benzene, 1,2,3,5-tetrachloro-	634-90-2		10/04/82	10/04/92
Benzene, 1,2,4,5-tetrachloro-	95-94-3		10/04/82	10/04/92
Benzene, 1,2,3-trichloro-	87-61-6		10/04/82	10/04/92
Benzene, 1,2,4-trichloro-	120-82-1		10/04/82	10/04/92
Benzene, 1,3,5-trichloro-	108-70-3		10/04/82	10/04/92
Chlorinated naphthalenes—chlorinated derivatives of naphthalene (empirical formula) $C_{10}H_xCl_y$ where $x+y=8$.			10/04/82	—/—/—
Naphthalene, chloro-	25586-43-0		10/04/82	—/—/—
Naphthalene, chloro derivatives	70776-03-3		10/04/82	—/—/—
Naphthalene, 1-chloro-	90-13-1		10/04/82	—/—/—
Naphthalene, heptachloro-	32241-08-0		10/04/82	—/—/—
Chlorinated paraffins—chlorinated paraffin oils and chlorinated paraffin waxes, with chlorine content of 35 percent through 70 percent by weight.			10/04/82	10/04/92
Alkanes, chloro-	61788-76-9		10/04/82	10/04/92
Alkanes, C_{6-18}, chloro-	68920-70-7		10/04/82	10/04/92
Paraffin waxes and hydrocarbon waxes, chlorinated	63449-39-8		10/04/82	10/04/92
Ethyltoluenes—This category consists of ethyltoluene (mixed isomers) and the ortho (1,2-), meta (1,3-) and para (1,4-) isomers			10/04/82	—/—/—
Benzene, 1-ethyl-2-methyl-	611-14-3		04/29/83	—/—/—
Fluoroalkenes—This category is defined as fluroalkenes of the general formula: $C_nH_{2n-x}F_x$ where n equals 2 to 3 and X equals 1 to 6.			04/29/83	04/29/93
Ethene, tetrafluoro-	116-14-3		04/29/83	04/29/93
Ethene, trifluoro-	359-11-5		04/29/83	01/13/86
1-Propene, 1,1,2,3,3,3-hexafluoro-	116-15-4		04/29/83	04/29/93
Glycidol (oxiranemethanol) and its derivatives			10/04/82	10/04/92
				
R=H; alkyl, alkenyl or alkynyl; aryl; acyl. where R=alkyl, alkenyl, alkynyl, aryl, or acyl; any substituents or functional groups may be present with the alkyl, etc., groups				
1,2-Cyclohexanedicarboxylic acid, bis(oxiranylmethyl) ester	5493-45-8		10/04/82	10/04/92
Disiloxane, 1,1,3,3-tetramethyl-1,3-bis[3-oxiranylmethoxy)propyl]-	126-80-7		10/04/82	10/04/92
2,4-Imidazolidinedione, 5,5-dimethyl-3-[2-(oxiranylmethoxy)propyl]-1-(oxiranylmethyl)-	32568-89-1		10/04/82	10/04/92
2,4-Imidazolidenedione, 3,3'-[2-(oxiranylmethoxy)-1,3-propanediyl]bis[5,5-dimethyl-1-(oxiranyl-methyl)-	38304-52-8		10/04/82	10/04/92
Neodecanoic acid, oxiranylmethyl ester	26761-45-5		10/04/82	10/04/92
Oxirane, 2,2'-[1,4-butanediylbis(oxymethylene)]bis	2425-79-8		10/04/82	10/04/92
Oxirane, (butoxymethyl)-	2426-08-6		10/04/82	10/04/92
Oxirane, 2,2'-[1,4-cyclohexanedilbis (methyleneoxymethylene)]bis-	14228-73-0		10/04/82	10/04/92
Oxirane, [(2,4-dibromophenoxy)methyl]-	20217-01-0		10/04/82	10/04/92
Oxirane, [(1,2-dibromopropoxy)methyl]-	35243-89-1		10/04/82	10/04/92
Oxirane, [(1,1-dimethylethoxy)methyl]-	7665-72-7		10/04/82	10/04/92
Oxirane, [[4-(1,1-dimethylethyl)phenoxy]methyl]-	3101-60-8		10/04/82	10/04/92
Oxirane, 2,2'-[(2,2-dimethyl-1,3-propanediyl)bis(oxymethylene)]bis-	17557-23-2		10/04/82	10/04/92
Oxirane, [(dodecyloxy)methyl]-	2461-18-9		10/04/82	10/04/92
Oxirane, 2,2'-[1,2-ethanediylbis (oxymethylene)]bis-	2224-15-9		10/04/82	10/04/92
Oxirane, 2,2',2'',2'''-[1,2-ethanediylidenetetrakis-(4,1-phenyleneoxymethylene)]tetrakis-	7328-97-4		10/04/82	10/04/92
Oxirane, (ethoxymethyl)-	4016-11-9		10/04/82	10/04/92
Oxirane, [[(2-ethylhexyl)oxy]methyl]-	2461-15-6		10/04/82	10/04/92
Oxirane, [(hexadecyloxy)methyl]-	15965-99-8		10/04/82	10/04/92
Oxirane, 2,2',2''-[1,2,6-hexanetriyltris-(oxymethylene)]tris-	68959-23-9		10/04/82	10/04/92

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
Oxirane, (methoxymethyl)-	930-37-0		10/04/82	10/04/92
Oxirane, 2,2'-[methylenebis(phenyleneoxymethylene)]bis-	39817-09-9		10/04/82	10/04/92
Oxirane, 2,2'-[methylenebis(2,1-phenyleneoxymethylene)]bis-	54208-63-8		10/04/82	10/04/92
Oxirane, [(1-methylethoxy)methyl]-	4016-14-2		10/04/82	10/04/92
Oxirane, 2,2'-[(1-methylethylidene)bis[4,1-phenyl-eneoxy[1-(butoxymethyl)-2,1-ethanediyl]oxymethylene]]bis-	71033-08-4		10/04/82	10/04/92
Oxirane, 2,2'-[(1-methylethylidene) bis(4,1-phenyl-eneoxymethylene)]bis-	1675-54-3		10/04/82	10/04/92
Oxirane, 2,2'-[(1-methylethylidene)bis(4,1-phenyl-eneoxymethylene)[bis-, homopolymer	25085-99-8		10/04/82	10/04/92
Oxirane, 2,2'-[(1-methylethylidene)bis[4,1-phenyleneoxy-3,1-propanediyloxy-4,1-phenylene(1-methylethylidene)-4,1-phenyleneoxymethylene]]bis-	72319-24-5		10/04/82	10/04/92
Oxirane, [(methylphenoxy)methyl]-	26447-14-3		10/04/82	10/04/92
Oxirane, [(2-methylphenoxy)methyl]-	2210-79-9		10/04/82	10/04/92
Oxirane, [[4-(1-methyl-1-phenylethyl)phenoxy]-methyl]-	61578-04-9		10/04/82	10/04/92
Oxirane, mono[C_6-C_{12}-alkyloxy)methyl]derivatives	68987-80-4		10/04/82	10/04/92
Oxirane, mono[(C_8-C_{12}-alkyloxy)methyl]derivatives	68609-96-1		10/04/82	10/04/92
Oxirane, mono[C_{10}-C_{16}-alkyloxy)methyl]derivatives	68081-84-5		10/04/82	10/04/92
Oxirane, mono[(C_{10}-C_{14}-alkyloxy)methyl]derivatives	68609-97-2		10/04/82	10/04/92
Oxirane, [(4-nitrophenoxy)methyl]-	5255-75-4		10/04/82	10/04/92
Oxirane, [(4-nonylphenoxy)methyl]-	6178-32-1		10/04/82	10/04/92
Oxirane, [(9-octadecenyloxy)methyl]-, (*Z*)-	60501-41-9		10/04/82	10/04/92
Oxirane, [(octadecyloxy)methyl]-	16245-97-9		10/04/82	10/04/92
Oxirane, 2,2'-(oxiranylmethoxy)-1,3-phenylene]bis(methylene)]bis-	13561-08-5		10/04/82	10/04/92
Oxirane, 2,2'-[[[2-oxiranylmethyoxy) phenyl]methylene]bis(4,1-phenyl-eneoxymethylene)]bis-	67786-03-2		10/04/82	10/04/92
Oxirane, 2,2'-[oxybis(methylene)]bis-	2238-07-5		10/04/82	10/04/92
Oxirane, (phenoxymethyl)-	122-60-1		10/04/82	10/04/92
Oxirane, 2,2'-[1,3-phenylenebis (oxymethylene)]bis-	101-90-6		10/04/82	10/04/92
Oxirane, 2,2'-[1,4-phenylenebis (oxymethylene)]bis-	2425-01-6		10/04/82	10/04/92
Oxirane, 2,2',2''-[1,2,3-propanetriyl tris(oxymethylene)]tris-	13236-02-7		10/04/82	10/04/92
Oxirane, [(2-propenyloxy)methyl]-	106-92-3		10/04/82	10/04/92
Oxirane, 2,2',2''-[propylidynetris (4,1-phenyleneoxymethylene)]tris-	68517-02-2		10/04/82	10/04/92
Oxirane, [(tetradecyloxy)methyl]-	38954-75-5		10/04/82	10/04/92
Oxiranecarboxylic acid, 3-methyl-3-phenyl-, ethyl ester	77-83-8		10/04/82	10/04/92
Poly(oxy-1,2-ethanediyl),-α-[4-oxiranylmethyoxy)benzoyl]-ω-[[4-oxiranylmethoxy)benzoyl]oxy]-	69943-75-5		10/04/82	10/04/92
2-Propenoic acid, 2-methyl-, oxiranylmethyl ester	106-91-2		10/04/82	10/04/92
2-Propenoic acid, oxiranylmethyl ester	106-90-1		10/04/82	10/04/92
Silane, [(3-chloropropyl)(dimethoxy)[3-(oxiranylmethoxy)propyl]-	71808-64-5		10/04/82	10/04/92
Silane, diethoxymethyl[3-(oxiranyl-methoxy)propyl]-	2897-60-1		10/04/82	10/04/92
Silane, ethoxydimethyl[3-(oxiranyl-methoxy)propyl]-	17963-04-1		10/04/82	10/04/92
Silane, trimethyoxy[3-(oxiranyl-methoxy)propyl]-	2530-83-8		10/04/82	10/04/92
Tetrasiloxane, 1,1,1,3,5,7,7,7-octamethyl-3,5-bis[3-(oxiranylmethoxy)propyl]-	69155-42-6		10/04/82	10/04/92
Trisiloxane, 1,1,1,3,5,5,5-heptamethyl-3-[3-(oxiranyl-methoxy)propyl]-	7422-52-8		10/04/82	10/04/92
Halogenated alkyl epoxides—halogenated noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.			10/04/82	—/—/—
				
R_1=X or $C_nH_{2n+1-y}X_y$(y=1 to 2n+1) R_2=H or X or $C_nH_{2n+1-y}X_y$(y=0 to 2n+1) R_3=H or X or $C_nH_{2n+1-y}X_y$(y=0 to 2n+1) R_4=H or X or $C_nH_{2n+1-y}X_y$(y=0 to 2n+1) X=halogen. Groups R_1–R_4 may contain one or more expoxide functions.				
Oxirane, (bromomethyl)-	3132-64-7		10/04/82	—/—/—
Oxirane, (2,2,3,3,4,4,5,5,6,6,7,7,7-tridecafluoroheptyl)-	38565-52-5		10/04/82	—/—/—
Phenylenediamines (Benzenediamines). This category is defined as all nitrogen unsubstituted phenylenediamines and their salts with zero to two substitutents on the ring selected from the same of different members of the group of halo, nitro, hydroxy, hydroxy-lower alkoxy, lower-alkyl, and lower alkoxy. For this purpose, the term "lower" is defined as a group containing between one and four carbons.			04/29/83	04/29/93
1,2-Benzenediamine	95-54-5		04/29/83	04/29/93
1,3-Benzenediamine	108-45-2		04/29/83	04/29/93
1,2-Benzenediamine, 4-butyl-	3663-23-8		04/29/83	—/—/—
1,2-Benzenediamine, 4-chloro-	95-83-0		04/29/83	04/29/93
1,3-Benzenediamine, 4-chloro-	5131-60-2		04/29/83	04/29/93
1,4-Benzenediamine, 2-chloro-, dihydrochloride	615-46-3		04/29/83	—/—/—
1,2-Benzenediamine, 5-chloro-3-nitro-	42389-30-0		04/29/83	—/—/—
1,2-Benzenediamine, 4-chloro-, sulfate (1:1)	68459-98-3		04/29/83	—/—/—
1,3-Benzenediamine, 4-chloro-, sulfate (1:1)	68239-80-5		04/29/83	—/—/—
1,4-Benzenediamine, 2-chloro-, sulfate	6219-71-2		04/29/83	—/—/—
1,4-Benzenediamine, 2,5-dichloro-	20103-09-7		04/29/83	—/—/—
1,2-Benzenediamine, dihydrochloride	615-28-1		04/29/83	04/29/93
1,3-Benzenediamine, dihydrochloride	541-69-5		04/29/83	04/29/93
1,4-Benzenediamine, dihydrochloride	624-18-0		04/29/83	04/29/93

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
1,4-Benzenediamine, ethanedioate (1:1)	62654-17-5		04/29/83	04/29/93
1,2-Benzenediamine, 4-ethoxy-	1197-37-1		04/29/83	—/—/—
1,3-Benzenediamine, 4-ethoxy dihydrochloride	67801-06-3		04/29/83	—/—/—
1,3-Benzenediamine, 4-ethoxy-, sulfate (1:1)	68015-98-5		04/29/83	—/—/—
1,3-Benzenediamine, *ar*-ethyl-*ar*-methyl-	68966-84-7		04/29/83	—/—/—
1,4-Benzenediamine, 2-methoxy	5307-02-8		04/29/83	04/29/93
1,2-Benzenediamine, 4-methoxy-, dihydrochloride	614-94-8		04/29/83	—/—/—
1,3-Benzenediamine, 4-methoxy-, sulfate	6219-67-6		04/29/83	—/—/—
1,3-Benzenediamine, 4-methoxy-, sulfate (1:1)	39156-41-7		04/29/83	04/29/93
Benzenediamine, *ar*-methyl-	25376-45-8		04/29/83	04/29/93
1,2-Benzenediamine, 3-methyl-	2687-25-4		04/29/83	04/29/93
1,2-Benzenediamine, 4-methyl-	496-72-0		04/29/83	04/29/93
1,3-Benzenediamine, 2-methyl-	823-40-5		04/29/83	04/29/93
1,3-Benzenediamine, 4-methyl-	95-80-7		04/29/83	04/29/93
1,3-Benzenediamine, 5-methyl-	108-71-4		04/29/83	04/29/93
1,4-Benzenediamine, 2-methyl-	95-70-5		04/29/83	04/29/93
1,4-Benzenediamine, 2-methyl-, dihydrochloride-	615-45-2		04/29/83	04/29/93
1,4-Benzenediamine, 2-methyl-, sulfate	6369-59-1		04/29/83	04/29/93
1,4-Benzenediamine, 2-methyl-, sulfate (1:1)	615-50-9		04/29/83	04/29/93
1,2-Benzenediamine, 4-nitro-	99-56-9		04/29/83	04/29/93
1,3-Benzenediamine, 4-nitro-,	5131-58-8		04/29/83	—/—/—
1,3-Benzenediamine, 5-nitro-,	5042-55-7		04/29/83	—/—/—
1,4-Benzenediamine, 2-nitro-,	5307-14-2		04/29/83	04/29/93
1,2-Benzenediamine, 4-nitro-, dihydrochloride	6219-77-8		04/29/83	—/—/—
1,4-Benzenediamine, 2-nitro-, dihydrochloride	18266-52-9		04/29/83	—/—/—
1,2-Benzenediamine, 4-nitro-, sulfate (1:1)	68239-82-7		04/29/83	—/—/—
1,4-Benzenediamine, 2-nitro-, sulfate (1:1)	68239-83-8		04/29/83	—/—/—
1,3-Benzenediamine, sulfate (1:1)	541-70-8		04/29/83	04/29/93
1,4-Benzenediamine, sulfate (1:1)	16245-77-5		04/29/83	04/29/93
Ethanol, 2-(2,4-diaminophenoxy)-, dihydrochloride	66422-95-5		04/29/83	—/—/—
Phenol, 2,4-diamino-, dihydrochloride	137-09-7		04/29/83	04/29/93
Phenol, 2,4-diamino-6-methyl-	15872-73-8		04/29/83	—/—/—
Phenol, 2,4-diamino-6-methyl-, hydrochloride	65879-44-9		04/29/83	—/—/—

(Approved by the Office of Management and Budget under OMB control number 2070-0004.)

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federal register

Friday
September 30, 1988

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 42 and 52

Federal Acquisition Regulation (FAR); Contractor Prepaid Commercial Bills of Lading; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 42 and 52

Federal Acquisition Regulation (FAR); Contractor Prepaid Commercial Bills of Lading

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering the addition of FAR 42.1403–3 and a new clause at 52.242–13 concerning contractor-prepaid commercial bills of lading. The procedures and limits for the use of contractor-prepaid commercial bills of lading published at 42.1403–3 have been incorporated into a new clause. The proposed changes permit contracting officers to authorize shipment of material F.O.B. origin on prepaid commercial bills of lading (CBL's) and for contractors to be reimbursed for the transportation costs.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before November 29, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 88–47 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

In Government contracting, prepaid shipments are a necessary tool for assuring delivery to the customer in a timely manner. Government buying offices deal with thousands of widely dispersed origin shippers who place uncontrolled demands on transportation officers for shipping documentation. It is not always possible to provide these contractors with Government bills of lading (GBL's) when prompt shipment is essential and there is a great distance between the Government office that would issue the GBL and the contractor's plant. The prepaid commercial bill of lading (CBL) solves this problem because the contractor completes its own bill of lading and is then reimbursed by the Government.

FAR 42.1403–2 currently permits the use of prepaid CBL's for F.O.B. origin contracts; however, there is no corresponding FAR clause. The proposed rule provides a new clause at 52.242–13 that retains the current weight limitations of FAR 42.1403–2 (150 pounds for commercial air shipments and 1,000 pounds for other commercial shipments), without dollar limitations to tighten procedures and enhance contract administration.

B. Regulatory Flexibility Act

The proposed change to subsection 42.1403–3 and the addition of 52.242–13 will not have a significant effect beyond the internal operating procedures of procuring agencies, or a significant cost or administrative impact on contractors within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The FAR already permits the use of prepaid CBL's for F.o.b. origin shipments, and contractors are and will be reimbursed for the transportation costs. Contractors generally support the prepaid CBL procedure since it permits shipments without the delays sometimes associated with obtaining GBL's.

Section 19 of the Office of Federal Procurement Policy Act does not, therefore, require publicizing the rule for public comment. Consequently, the Regulatory Flexibility Act does not apply to this proposal. Nevertheless, since time permits, public comments are solicited and will be considered in formulation of the final rule. Comments from small entities concerning the affected FAR subsections will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite FAR Case 88–610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes do not impose any recordkeeping or information collection requirements from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 42 and 52

Government procurement.

Dated: September 23, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 42 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 42 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 42—CONTRACT ADMINISTRATION

2. Section 42.1403–3 is added to read as follows:

42.1403–3 Contract clause.

The contracting officer shall insert the clause at 52.242–13, F.O.B. Origin, Prepaid Freight, in solicitations and contracts when f.o.b. origin shipments are to be made and, in the judgment of the contracting officer, it is advantageous to the Government to authorize the contractor to ship supplies, under the conditions and within the limitations specified in 42.1403–2, using contractor-prepaid commercial bills of lading.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.242–13 is added to read as follows:

52.242–13 F.O.B. Origin, Prepaid Freight.

As prescribed in 42.1403–3, insert the following clause:

F.O.B. ORIGIN, PREPAID FREIGHT (SEP 1988)

(a) F.o.b. origin freight shipments which do not have a security classification shall move on prepaid commercial bills of lading or other shipping documents to domestic destinations including air and water terminals. Weight of individual shipments shall be governed by carrier restrictions but shall not exceed 150 pounds by any form of commercial air (if authorized by the Contracting Officer) or 1,000 pounds by other commercial carriers. The Contractor agrees to pay reasonable freight charges to be reimbursed by the Government.

(b) The Contractor shall annotate the commercial bill of lading as required by the clause of this contract entitled "Commercial Bill of Lading Notations."

(c) The Contractor shall consolidate prepaid shipments in accordance with procedures established by the cognizant transportation office. The Contractor is authorized to combine Government prepaid shipments with the Contractor's commercial shipments for delivery to one or more consignees and the Government will reimburse its pro rata share of the total

freight costs. The Contractor shall provide a copy of the commercial bill of lading promptly to each consignee. Quantities shall not be divided into mailable lots for the purpose of voiding movement by other modes of transportation.

(d) Transportation charges will be billed as a separate item on the invoice for each shipment made. A copy of the pertinent bill of lading, shipment receipt, or freight bill shall accompany the invoice unless otherwise specified in the contact.

(e) Loss and damage claims will be processed by the Government.

(End of clause)

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federal register

Friday
September 30, 1988

Part VII

Department of Education

34 CFR Part 654

Robert C. Byrd Honors Scholarship Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 654

Robert C. Byrd Honors Scholarship Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes regulations to govern the actions of State educational agencies (SEAs) in their administration of the Robert C. Byrd Honors Scholarship Program (the Byrd Scholarship Program), authorized by Title IV of the Higher Education Act of 1965, as amended. These proposed regulations specify the role of the Secretary and the responsibilities of the SEAs in the administration of the program and also describe the responsibilities of the scholarship recipients.

DATE: Comments must be received on or before November 14, 1988.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Stephen D. Wingard, Office of Postsecondary Education, U.S. Department of Education, (Room 4018, ROB–3), 400 Maryland Avenue SW., Washington, DC 20202–5447. Telephone (202) 732–4507.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Stephen D. Wingard, (202) 732–4507.

SUPPLEMENTARY INFORMATION: The Byrd Scholarship Program is a Federally-funded program authorized under Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended (HEA). The purpose of the program is to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued academic achievement. Non-renewable scholarships of $1,500 are awarded to students on the basis of merit for the first year of study at an institution of higher education.

All fifty States, the District of Columbia, and Puerto Rico are eligible to participate in the Byrd Scholarship Program. The SEA responsible for supervising public elementary and secondary schools in each State administers the program. On the basis of the statutory formula, the Secretary awards each SEA an allotment of funds for scholarship payments and an allotment for administrative costs. In addition to other program responsibilities, the SEA establishes scholar selection criteria and procedures to ensure that scholarship assistance is provided only to students who meet all eligibility criteria.

Byrd Scholarships were awarded for the first time in the spring of 1987, for study in academic year 1987–88. Because the Secretary has not previously issued specific regulations for this program, administration of the program to date has been governed by the General Education Provisions Act, EDGAR, applicable provisions of the program statute, and notices of final procedures published in the **Federal Register** on April 6, 1987 (52 FR 10920) and February 12, 1988 (53 FR 4353). The procedures in the notices for fiscal year 1987 and for fiscal year 1988, which differ from those in the proposed regulations, reflect appropriations language for those respective years that superseded certain provisions in the program statute. The issuance of these proposed regulations is intended to provide additional guidance to SEAs in their administration of the program. Some areas in which these proposed regulations clarify the statutory requirements are described below.

Selection Criteria

These proposed regulations require the SEA to establish critera and procedures for the selection of scholars under which applicants will be evaluated solely on the basis of academic merit, consistent with the statutory distribution of awards among Congressional districts (10 scholars per each district). All residents of a State who meet the basic eligibility requirements in § 654.41(a)(1) and (2) of these proposed regulations must be given the opportunity to compete for a Byrd Scholarship, regardless of whether the secondary schools they are attending are public or private or are located within or outside their State of residency, and regardless of whether the institutions of higher education they plan to attend are public or private or are located within or outside their State of residency. The SEA may not consider the sex, race, handicapped condition, creed, or economic background of applicants in evaluating applications or in distributing awards. Furthermore, since the Byrd Scholarship is a non-need-based merit scholarship, the SEA may not consider an applicant's financial need or educational expenses in selecting scholars or in distributing awards.

Scholarship Amount

The SEA is required to award a scholarship of $1,500 to each Byrd Scholar. Neither the SEA nor the financial aid administrator at the institution the scholar attends may adjust the scholarship amount on the basis of the student's educational expenses or financial need. The financial aid administrator, on the other hand, must consider the Byrd Scholarship when packaging other Title IV aid for the scholar. If the scholarship, when combined with other Title IV aid, resources, and the student's expected family contribution (EFC) exceeds the student's cost of attendance, the Byrd Scholarship must be used as a substitute for the student's EFC. If any overaward results after substitution of the EFC with the Byrd Scholarship, the financial aid administrator must follow the overaward provisions in the campus-based program regulations (34 CFR 674.14, 675.14, and 676.14).

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a number of small entities. State educational agencies administer the program. States and State agencies are not defined as "small entities" in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

Section 654.10 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC, 20503; Attention: James D. Houser.

Invitation To Comment

Interested parties are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during

and after the comment period, in Room 4018, ROB–3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR 654

Education, grant programs, Education, state-administered, Education, student aid.

Dated: September 26, 1988.

Linus Wright,

Acting Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.185; Robert C. Byrd Honors Scholarship Program)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 654, as follows:

PART 654—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

Subpart A—General

Sec.

Subpart B—How Does a State Apply for a Grant?

Subpart C—How Does the Secretary Make a Grant to a State?

Subpart D—How Does an Individual Apply to a State for a Scholarship?

Subpart E—How Does a State Award a Scholarship to an Applicant?

Subpart F—What Post-Award Conditions Must Be Met by a State?

Authority: 20 U.S.C. 1070d–31 to 1070d–41, unless otherwise noted.

Subpart A—General

§ 654.1 What is the Robert C. Byrd Honors Scholarship Program?

(a) Under the Robert C. Byrd Honors Scholarship Program, the Secretary makes available, through grants to the States, scholarships to exceptionally able students for study at institutions of higher education in order to recognize and promote student excellence and achievement.

(b) This program is kown as the "Byrd Scholarship Program" and scholarship recipients are known as "Byrd Scholars."

(Authority: 20 U.S.C. 1070d–31, 1070d–33)

§ 654.2 Who is eligible for an award?

(a) States are eligible to apply for grants under this program.

(b) Outstanding high school graduates who have been accepted for enrollment at institutions of higher education are eligible to apply to their respective States of residence for scholarships under this program.

(Authority: 20 U.S.C. 1070d–33)

§ 654.3 What kinds of activities may be assisted?

(a) A State may use its allotment under § 654.20(a) only for making payments to scholars.

(b) (1) A State may use its allotment under § 654.20(b) for covering costs incurred in administering the program, as determined in accordance with Appendix C of 34 CFR Part 74, or for making payments to scholars.

(2) Under the authority provided in § 74.176(c), the Secretary waives the requirement that a State obtain the Secretary's written approval of the State's costs prior to the State's use of its allotment under § 654.20(b) for administrative costs.

(Authority: 20 U.S.C. 1221e–3; 20 U.S.C. 1070d–35, 1070d–38)

§ 654.4 What regulations apply?

The following regulations apply to the Robert C. Byrd Honors Scholarship Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(b) The regulations in this Part 654.

(Authority: 20 U.S.C. 1070d–31 *et seq.*)

§ 654.5 What definitions apply to the Robert C. Byrd Honors Scholarship Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 419B of the Act:

Secondary school

State

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

EDGAR

Secretary

State educational agency (SEA)

(c) *Other definitions.* The following definitions also apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

"Award period" means the period of time from April 1 of one year through March 31 of the following year.

"Institution of higher education" means any public or private nonprofit institution of higher education as defined in 34 CFR 600.4 of the Institutional Eligibility regulations.

"Scholar" means a Byrd Scholarship recipient.

"Scholarship" means an award made to an individual under this part.

(Authority: 20 U.S.C. 1070d–31 to 1070d–41)

Subpart B—How Does a State Apply for a Grant?

§ 654.10 What must a State do to receive grants under this program?

(a) To receive grants under the Byrd Scholarship Program, a State shall submit a participation agreement to the Secretary for review and approval.

(b) The Secretary approves a participation agreement in which the SEA agrees to administer the Byrd Scholarship Program in accordance with the requirements in this part and that—

(1) Describes the criteria and procedures to be used by the State in the selection of scholars in sufficient detail for the Secretary to determine the degree to which they satisfy the provisions of this part; and

(2) Provides assurances that—

(i) No changes will be made in the criteria and procedures to be used in the selection of scholars without the prior written approval of the Secretary;

(ii) Each student receiving a Byrd scholarship shall meet the eligibility requirements described in § 654.41;

(iii) Scholars will be selected solely on the basis of criteria and procedures established in accordance with the provisions of § 654.40;

(iv) The SEA will conduct outreach activities to publicize the availability of Byrd Scholarships to all seniors attending high schools in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families know about their opportunity for full participation in the program;

(v) The SEA will issue an award for $1,500 to each Byrd Scholar during an awards ceremony to be held before the last date on which any high school in the State completes its school year; and

(vi) The SEA will expend the amount of Federal funds allotted to it for this program only as described in § 654.3.

(c) Upon the Secretary's approval of its agreement, a State need not submit additional agreements in order to be considered for funding under this program in subsequent years.

(Authority: 20 U.S.C. 1070d–33, 1070d–35 to 1070d–39)

Subpart C—How Does the Secretary Make a Grant to a States?

§ 654.20 How does the Secretary allot funds to the State?

From the funds appropriated for the Byrd Scholarship Program, the Secretary allots to each State having an approved participation agreement under § 654.10—

(a) $1,500 multiplied by the number of scholars the State may select under § 654.41(b)(1); and

(b) $10,000 plus 5 percent of the amount for which the State is eligible under paragraph (a) of this section.

(Authority: 20 U.S.C. 1070d–34)

Subpart D—How Does an Individual Apply to a State for a Scholarship?

§ 654.30 How does an individual apply for a scholarship?

To apply for a scholarship, an individual must follow the application procedures established by the SEA in the State in which the individual resides.

(Authority: 20 U.S.C. 1070d–33, 1070d–35)

Subpart E—How Does a State Award a Scholarship to an Applicant?

§ 654.40 What are the selection criteria and procedures?

(a) The SEA shall establish criteria and procedures for the selection of scholars after consultation with school administrators, school boards, teachers, counselors, and parents.

(b) The selection criteria and procedures shall be designed to ensure that—

(1) Ten scholars will be selected from among the residents of each Congressional district of the State for each year for which funds are received, with the exception of the District of Columbia and the Commonwealth of Puerto Rico, which will each establish procedures to select 10 scholars from among their respective residents each year for which funds are received;

(2) Scholars will be selected solely on the basis of demonstrated outstanding academic achievement, promise of continued achievement, and the geographic consideration described in paragraph (b)(1) of this section. They will be selected—

(i) Without regard to whether the institutions of higher education they plan to attend are public or private or are within or outside their Congressional district or State of residency.

(ii) Without regard to whether the secondary schools they attend are within or outside their Congressional district or State of residency.

(iii) Without regard to sex, race, handicapping condition, creed, or economic background.

(iv) Without regard to the student's educational expenses or financial need.

(Authority: 20 U.S.C. 1070d–33, 1070d–35 to 1070d–37)

§ 654.41 What are the requirements for a student to receive assistance under this program?

(a) To receive scholarship assistance, a student must—

(1) During the same calendar year in which the scholarship is to be awarded—

(i) Graduate from a secondary school, or receive a certificate of high school equivalency recognized by the State in which he or she resides; and

(ii) Be accepted for enrollment at an institution of higher education;

(2) Be a resident of the State in which he or she is applying for a scholarship;

(3)(i) Be a U.S. citizen or resident, or

(ii) Provide evidence from the U.S. Immigration and Naturalization Service that he or she—

(A) Is a permanent resident of the United States; or

(B) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(4) File with the institution he or she plans to attend or is attending, a Statement of Registration Status if required by the institution under the provisions of 34 CFR 668.33 of the Student Assistance General Provisions regulations; and

(5) Pursue a course of study at an institution of higher education, as described in paragraph (b) of this section.

(b) For purposes of paragraph (a)(5) of this section, a scholar is deemed to be pursuing a course of study if he or she is enrolled at an institution of higher education as at least a half-time student, as determined by the institution he or she is attending under standards applicable to all students enrolled in that scholar's program.

(Authority: 20 U.S.C. 1070d–36 to 1070d–38, 20 U.S.C. 1221e–3; 50 U.S.C. App. 462)

Subpart F—What Post-Award Conditions Must Be Met by a State?

§ 654.50 What requirements must be met by States in the administration of this program?

(a) To continue to receive payments under this part, a State shall—

(1) Provide scholarship assistance only to students who meet the requirements in § 654.41;

(2) Select scholars in accordance with the provisions in § 654.40;

(3) Award to each scholar only one scholarship in the amount of $1,500 to be used for the first year of study at an institution of higher education;

(4) Make arrangements, to the extent possible, to have scholarship awards presented to the scholars during a ceremony at a convenient location by Members of the Senate and Members of the House of Representatives who represent the State (or by the Delegate in the case of the District of Columbia or the Resident Commissioner in the case of the Commonwealth of Puerto Rico);

(5) Disburse the scholarship proceeds, in the form of a warrant, voucher, or check payable to the student or copayable to the student and an official of the institution of higher education in which the student enrolls, during the awards ceremony or after confirming that the scholar has met the requirements described in § 654.41;

(6) Make no adjustments to the student's award because of the student's educational expenses or financial need;

(7) Collect any scholarship funds disbursed to a student who fails to meet the requirements of § 654.41;

(8) Make reports to the Secretary that are necessary to carry out the Secretary's functions under this part; and

(9) Except as provided in paragraph (b) of this section, expend all funds received from the Secretary for scholarships during the award period specified by the Secretary with regard to those funds.

(b) (1) After awarding all scholarships during an award period, as required by paragraph (a)(9) of this section, a State may reserve for scholarship expenditures in the following award period any funds that have been awarded but are subsequently returned or recovered.

(2) A State may reserve for administrative costs or scholarship expenditures in the following award period any funds from its administrative cost allotment which remain unexpended at the end of the award period for which the funds were granted.

(Authority: 20 U.S.C. 1070d–33, 1070d–36, 1070d–38 to 1070d–40)

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Part VIII

Department of Transportation

Federal Highway Administration

49 CFR Part 395

Driver's Record of Duty Status; Automatic On-Board Recording Devices; Final Rule and Notice of Termination of Exemptions

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

[FHWA Docket No. MC-130]
RIN 2125-AB95

Driver's Record of Duty Status; Automatic On-Board Recording Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule and notice of termination of exemptions.

SUMMARY: The FHWA is amending Part 395, Hours of Service of Drivers, of the Federal Motor Carrier Safety Regulations (FMCSRs) to allow motor carriers, at their option, to use certain automatic on-board recording devices to record their drivers' records of duty status in lieu of the required handwritten record. This action also rescinds the waivers granted certain motor carriers regarding the use of these devices. This amendment will provide motor carriers and enforcement personnel with enhanced information for control and safer operation of commercial motor vehicles operating in interstate commerce.

DATES: Effective date: October 31, 1988 Devices are authorized as of October 31, 1988. Devices must be in compliance with all requirements no later than October 2, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The FHWA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on July 13, 1987, (52 FR 26289) requesting information and comments to questions concerning the use of automatic on-board recorders. Based on the information obtained from public responses to the ANPRM, and the FHWA's on-board computer testing program, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (53 FR 8228), March 14, 1988. The NPRM proposed amending the driver's record of duty status recordkeeping requirement to permit motor carriers to use an automatic on-board recorder in lieu of the required handwritten record of duty status. The comment period for this rulemaking closed April 13, 1988.

Background

Beginning in 1937, interstate motor carrier drivers were required to record their hours of service, or duty status, in a prescribed format, in duplicate, and in their own handwriting. Since 1982, the FHWA has required drivers to use a graph grid to record duty status and other vital information (49 CFR 395.8(g)). An exception is provided for drivers operating within a 100 air-mile radius of the driver's normal work reporting location (49 CFR 395.8(l)(1)). The graph-grid may be incorporated into any motor carrier form, provided all information required by Section 395.8(d) is contained on that form.

On October 1, 1986, the FHWA received a petition from the Insurance Institute for Highway Safety (IIHS) requesting regulations ". . . to require the installation and use of automatic on-board recordkeeping systems to record vehicle operations." The petition was denied. The IIHS petitioned for reconsideration on February 25, 1987, to which the FHWA responded by publishing an ANPRM in the **Federal Register** on July 13, 1987 (52 FR 26289). Comments to the ANPRM favored a rule allowing on-board recorders as opposed to mandating their use. An NPRM was published in the **Federal Register** on March 14, 1988 (53 FR 8228). The NPRM proposed to allow the use, at the motor carrier's option, of on-board recorders in lieu of the handwritten record of duty status required by 49 CFR 395.8. The NPRM also denied the IIHS's petition to mandate the use of automatic on-board recorders.

The FHWA initiated a waiver program for the use of automatic on-board recorders in 1985. The program was initiated to develop information and to test the on-board recorders under actual operating conditions. The first waiver was granted to Frito-Lay Inc., on April 17, 1985 (50 FR 15269), to use on-board computer in lieu of the required handwritten record of duty status. A total of ten motor carriers received waivers.

The FHWA conducted evaluations of the records of seven of these motor carriers. Three motor carriers were not evaluated because of insufficient experience with the devices at the time the evaluations were conducted. These evaluations have produced no information to indicate that the on-board recorders degrade safety or produce inaccurate driver's records of duty status. Evaluation of the computerized records indicated the drivers were, with one exception, in compliance with the hours-of-service rules. Furthermore, motor carriers reported that accurate hours of service information facilitated increased productivity. Driver acceptance of the new devices, initially a concern of the FHWA, appears to be good. The FHWA has found that all of the motor carriers evaluated have instituted company required speed limits for their drivers/vehicles.

It is the FHWA's belief that the hours of service of drivers rules are crucial to its overall safety mission. It further believes that all enforcement agencies, Federal, State, or local must give priority to the enforcement of these rules.

Docket Comments

The FHWA received a total of 26 comments in response to the NPRM. The commenters included:

7 motor carrier industry associations;
6 manufacturers of on-board computers;
3 State regulatory agencies;
2 commercial companies that operate private motor carrier fleets;
2 private citizens;
1 insurance industry member; and
1 labor union, a State highway patrol, the National Transportation Safety Board, a vehicle manufacturer, and a safety advocacy group.

A total of 17 commenters favored allowing motor carriers to choose between using the automatic on-board recorder and the current paper record of duty status. Two opposed mandatory use of these devices, and one opposed their use entirely. Two commenters, both from the IIHS, recommended mandatory use of automatic on-board recording devices. Two commenters took no position on the mandatory versus permissive use issue.

With the exception of the one comment from the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America (IBT) which opposes their use, the commenters generally supported the proposed rule to allow the use of on-board recorders. The Private Truck Council of America, Inc. (PTCA), stated, "The PTCA endorses without any reservation this notice of proposed rulemaking." The American Trucking Associations, Inc. (ATA), reported, "The trucking industry views the present NPRM as a step forward in bringing hours of service recordkeeping requirements in line with modern technology." One private trucking company, Wolverine World Wide, Inc., stated, ". . . the new technology being made available to fleets should be given every opportunity to prove itself with the least amount of regulation possible

. . ." Finally, the Department of California Highway Patrol supported the proposed rulemaking, but noted that the devices should not be required nor should the gathering and retention of accurate drivers' hours of service information be compromised.

The National Private Trucking Association (NPTA) repeated its comments submitted in response to the ANPRM stating, ". . . NPTA endorses the use of on-board recorders by its members to monitor drivers' compliance with federal requirements governing hours of service. . . ." The NPTA also observed that the on-board recorder will not, in and of itself, result in a greater level of safety. The FHWA has learned, through information gathered from ten motor carriers permitted to use the devices under waivers, that the management of most of these companies instituted speed limits for their drivers, as well as stringent programs for dealing with driver abuse of the speed limit, the on-board equipment, or falsification of information. These steps are seen by the FHWA as positive safety impacts and supportive of the introduction of this technology into the motor carrier industry.

The IBT opposed the use of automatic on-board recorders. The IBT reiterated its position that there is a likelihood of a link between electronic monitoring and physical and psychological stress. The IBT pointed out that psychological stress is one of the ten leading causes of occupational injuries and illness. The union stated, "The Federal Highway Administration has an as-yet-unmet responsibility to take this seriously, and to address it in terms of both employee health and public safety." The FHWA believes that, based on its information gathering program, the motor carriers using on-board recorders, either under the FHWA waiver program or as an adjunct to their fleet control efforts, have taken considerable care in introducing the devices into their fleet. As a result of this training, driver abuse and/or falsification of data has been found to be minimal or nonexistence while driver acceptance of the devices has been good.

Comments submitted by the American Bus Association (ABA) asserted strong opposition to any requirement for on-board recording devices on buses. The ABA suggested that it was premature to allow these devices on other than a case-by-case basis since there had been no testing on buses authorized by the FHWA. The ABA further stated that it did not oppose on-board recording devices, but that it believed that there should be actual testing conducted on buses before giving a "blanket approval" for their use. On-board recorders now in use could, in most instances, be used interchangeably on any commercial motor vehicle whether it be a truck, truck tractor, or a passenger carrying vehicle. No passenger carrier saw fit to request a waiver to test these devices under the FHWA test program. A provision is being offered whereby a motor carrier may improve its safety posture, reduce its paperwork burden, and increase its profit margin. The fact that these devices have not been specifically tested on buses does not persuade the FHWA to limit thier permissive use to property carrying motor vehicles.

The IIHS submitted two sets of comments; both recommending that the use of on-board recorders be mandated. The IIHS contended, based on a U.S. General Accounting Office report, "Truck Safety: Disposition of Allegations Concerning Three Safety Audits (RCED–88–17FS, November 1987) that "abuse of hours of service rules is typical of the industry. "Thus, information in this report supports the need to mandate on-board recording devices" [to eliminate falsification of driver logs]. The IIHS did not oppose the proposal to allow on-board recorders stating, ". . . this present rulemaking, as limited as it is, is an important first step toward the eventual widespread utilization of on-board recorders for all vehicles." The American Insurance Service Group, Inc., extended this though by stating, ". . . mandatory installation of these devices . . . should be considered in future rulemaking."

The FHWA has high expectations that these devices will produce identifiable advancements in safety over time and that the rate of assimilation of this technology will be rapid. However, the introduction and use of these devices by the motor carrier industry is in the earliest stage and data and information the FHWA would like to have on the long-term safety impact of these devices is only now being developed. For this reason, the FHWA plans to continue to follow closely the assimilation and use of this technology by motor carriers through the FHWA's motor carrier safety review program and accident data analysis.

The FHWA asked questions in the NPRM concerning certification of information, personal identifiers, software security, and other related technology. Few responses were submitted concerning these areas of interest. Respondents acknowledged that there is no absolute way to guarantee either the record authenticity or the driver identification (individual actually behind the wheel of the vehicle). Rockwell International and the National-American Wholesale Grocers' Association (NAWGA) pointed out that drivers tend to be very careful in using their assigned identification code numbers. A very strong incentive not to jeopardize their code numbers or enter a wrong number into the device is that it may result in the driver not being paid for a trip. This is because the motor carriers are starting to transmit the on-board recorder data directly to their payroll system for efficiency of operation and costs savings.

The FHWA believes that a reasonable level of security is present in the design of today's on-board recorder systems. The device construction, driver and system codes, incentives (e.g., driver pay), and carrier concern for maintaining expensive equipment are just some of the elements that lend themselves to the security of these systems.

The FHWA asked for comments on the amount and kind of training that should be provided for State enforcement agents. Three on-board recorder manufacturers, the IBT, and the ATA responded to this question. The five recommended that some training should be given. Four of the five suggested small information cards should be provided with sufficient directions to enable an enforcement official to operate the devices independently. The FHWA is in agreement with these comments. It has learned through the waiver program that manufacturers are, in fact, supplying this type of document to the motor carriers using their equipment. The FHWA is, therefore, requiring an instruction sheet be carried on board each vehicle equipped with an on-board recording device.

Ten respondents provided input on the question of whether motor carriers should notify the FHWA of their intention to use the on-board recorders. Six respondents favored such a system. The FHWA has determined that there is no need for a notification requirement. The motor carriers that adopt this technology will be required to comply with the requirements of this rule which normal enforcement actions and motor carrier safety reviews will verify.

Finally, the FHWA asked for comments on whether the design of the on-board recorders should be required to warn the driver of a malfunction. Eight commenters recommended that the driver should receive a warning of a malfunction. Two indicated that the devices now being sold had this feature.

In another comment, the ATA recommended that the on-board recorder not have an audible warning feature that would distract the driver.

CADEC Systems, Inc., an on-board recorder manufacturer whose devices are being used by motor carriers under FHWA waiver, pointed out that this type of requirement is within the scope of today's technology and adds no cost to the unit. CADEC further advised that its devices now being operated by motor carriers under FHWA waiver have the capability of automatically notifying the driver of the motor vehicle, visually and audibly, that a sensor failure or malfunction has occurred. Presently, its devices cannot notify the driver of a system failure. Since visual and/or audible warning of a malfunction or failure is a software related function, CADEC has advised that, given lead time of approximately nine months, it could furnish new on-board recording devices that are capable of visually and/or audibly notifying the driver immediately of a sensor or system failure or malfunction. The cost for the added capability would be approximately $15 per unit. Retrofitting existing devices now in use would be much more expensive. CADEC believes the design changes, device removal and reinstallation cost would be between $250 and $300. On top of that, the motor carrier would incur additional expenses generated by each motor vehicle being taken out of service during the retrofitting process.

Rockwell International, another on-board recorder manufacturer whose devices are presently being used by motor carriers under FHWA waiver, has advised that its devices cannot, at this time, automatically visually or audibly warn a driver of a sensor or system malfunction or failure. Presently, its devices have the capability of notifying the driver of a system failure once the driver queries the device for a bit of information. Rockwell also advises that, given lead time of approximately nine months, it could furnish new on-board recording devices that are capable of visually and/or audibly notifying the driver immediately of a sensor or system failure or malfunction. It too believes that the attendant software can be redesigned for automatic driver warning at a cost of about $15 per unit. Rockwell's estimates concerning retrofit expense were very similar to those made by CADEC. Both manufacturers believe a retrofit requirement would not be cost effective and is not warranted.

Automatically warning the driver that the on-board recording device in his/her vehicle has malfunctioned has merit. The FHWA believes that a malfunction or failure is certain to cause confusion and delays for both the driver and enforcement officials during any vehicle/driver inspection unless the driver is informed of the malfunction at the time it occurs. For these reasons, the FHWA believes an automatic driver warning system must be made a part of the device design. Since the driver warning would be immediate, we see no need for the date and time of the failure or malfunction to be displayed on the device in the cab of the motor vehicle. We do, however, see a need for the date and time of the failure to be recorded on the hard copy printout that will be reviewed by motor carrier personnel or enforcement personnel. It is believed that this requirement will enhance compliance and enforcement capabilities and serve as a deterrent against possible fraud with respect to hours of service recordkeeping.

In view of the above discussion, the FHWA will require that each on-board recorder used for recording hours of service of drivers have the capability of immediately and automatically warning a driver, either visually and/or audibly, that there has been a sensor or system malfunction or failure. Further, the system utilized to analyze and reproduce the collected data in printed form must have the capability of denoting the date and time of any failure or malfunction that occurs. These requirements will apply to all on-board recording devices installed in a motor vehicle and attendant equipment used by a motor carrier to record driver's hours of service. All devices must meet these requirements by October 2, 1989.

These requirements will not apply to those devices installed and operational as of October 31, 1988 in the vehicles of those motor carriers who were granted waivers. This exception is being included to hold harmless those carriers since they installed and are using the devices in good faith and in accordance with the waiver provisions. Any devices installed and operational after October 31, 1988 must meet the provisions of paragraphs 395.15(i)(4) and (7). Motor carriers who were previously granted a waiver must ensure that any device installed after October 31, 1988 meets these requirements.

On-board recording devices normally monitor and record several other vehicle functions over and above those required for recording a driver's hours of service. The FHWA believes that a driver will monitor the on-board system several times during a particular trip or day. The FHWA, therefore, also believes that a driver would discover a sensor or system malfunction or failure shortly after it occurred by comparing the information displayed by the device with information generated by other motor vehicle components (e.g., tachometer, speedometer, or odometer). The driver could then take appropriate action concerning the preparation of handwritten records of duty status. These premises, coupled with the fact that retrofitting will be costly and not cost effective, persuades the FHWA to forego any type of retrofit requirement.

In reply to the FHWA's question on information format, five respondents recommended requiring a uniform information format and five recommended against such a requirement. CADEC Systems, Inc. contends that to specify a rigid format for the data presentation could be unfairly restrictive. However, it believes that uniformity is essential in (1) the data elements that must be recorded and are subject to review; (2) the provisions that enable a driver to inquire and know how many hours he has remaining before he is in violation; and (3) the provisions that imply ease of use and understanding. The comments of Wolverine World Wide, Inc., supported requirements that would be broad enough to permit innovation by manufacturers but still require some standardization to provide for efficient, error free roadside inspection. Sections 395.15(c) and 395.15(i)(4) provide that certain information required is to be recorded and displayed upon request. At this time, there is no evidence supporting a need for uniform formats for computer printed records of drivers' duty status changes. On-board recorder manufacturers have recognized the desirability of producing data acquisition formats compatible with the sequence of information familiar to the motor carrier industry and have reflected this understanding in the information presentation printouts and device displays.

Only one respondent recommended setting a maximum failure rate for the on-board recorders. The recommended rate was three percent. Three respondents opposed such a requirement. The FHWA has found, in its waiver program for on-board recorders, that the failure rate of these devices is very low, usually less than one percent. A device manufacturer, in its comments, pointed out the difficulty faced in any attempt to establish accurate failure rates. In addition, such a system would likely require additional paperwork. Based on the experience gained to date, the FHWA has

determined there is no need for setting a maximum failure rate at this time.

The FHWA believes that the rule will provide motor carriers with opportunities to streamline their recordkeeping operations. It is estimated, by the ATA, NAWGA, and Rockwell International, Inc., that savings of 80 percent in paperwork costs associated with the hours of service rules are possible.

Discussion of Specific Rule Changes

A definition of automatic on-board recording devices is being added to § 395.2, Definitions. This new definition is sufficiently broad to include computers and tachographs. The devices chosen by each motor carrier must meet the requirements specified in the rule. The rule requires the device to be integrally synchronized with specific operations of the vehicle in which it is installed. As a minimum, the device must record engine use, road speed, and miles driven as well as the date and time of day.

Section 395.8 is being amended to provide motor carriers with the option to use either automatic on-board recorders or the handwritten record of duty status.

As proposed, a new § 395.15 is being added to Part 395. This section contains the additional requirements that motor carriers must follow if they choose to use an automatic on-board recording device. Section 395.15(a) contains the authority for motor carriers to use on-board recording devices. The FHWA is not requiring that all vehicles in a motor carrier's fleet or at a particular terminal be equipped with the devices if the carrier chooses to use them. A measured phase-in of these devices may well best the best method of introduction for some fleets. The FHWA encourages carrier in the initial phase to use the automatic devices in conjunction with the handwritten drivers' records of duty status.

Section 395.15(b) specifies the information that must be recorded by on-board recording device. Proposed paragraphs (b) and (d) are consolidated into paragraph (b) of § 395.15. The paragraph addressing information requirements along with § 395.15(i). Performance of recorders, specify the required characteristics of a automatic recording devices. These requirements are not intended to preclude additional, more sophisticated features, but to establish the minimum level necessary to ensure that the devices perform their intended functions.

Section 395.15(b) requires each vehicle mounted device to produce, on demand, the hours of service summary information needed by the driver in order to avoid noncompliance, and by enforcement personnel for driver inspections. The on-board recording devices must also have the ability to display, chronologically, the driver's hours of service events for the current day and the previous seven days where applicable. This section clearly states that where a driver operates with an on-board computer, in lieu of the handwritten drivers record of duty status, the driver is not required to maintain hard copies of the driver's record of duty status or computer printed documents in the vehicle. The different types of records may be used in combination to satisfy the requirements of § 395.8(k)(3), Retention of driver's records of duty status. When copies are maintained, the FHWA requires that the driver sign each document. The driver's signature certifies that all entries on the documents, required by this section, are true and correct.

If the recording device fails, § 395.15(f) requires that the device warn the driver either audibly or visually. Thereafter, the driver must immediately reconstruct his/her record of duty status so as to be in compliance with § 395.8(k)(3). Section 395.15(g)(1) requires that instructions on how the recording device operates be carried on board the vehicle. Section 395.15(g)(2) requires the driver to carry sufficient blank duty status grid-graphs in case of device failure.

Section 395.15(h) requires that the driver, before submitting the record of duty status to the motor carrier, review and verify that the information is correct. The submission to the carrier is the driver certification that all entries made by the driver are true and correct. The FHWA believes that the driver's review and verification of the information, prior to submitting it, is critical to the integrity of the record since the record will in many cases be submitted electronically without a driver's signature.

Section 395.15(i) establishes minimum performance standards for the devices. These standards are considered important to ensure that the devices have low failure rates and drivers are not faced with major reconstruction of past travel. The standards are also needed to ensure that the devices provide information in a uniform and adequate manner for Federal, State, and local enforcement personnel. The rule requires that the motor carrier obtain a certification from the device manufacturer that the device meets certain standards. It also requires that the device permit update of duty status only when the vehicle is at rest, with one exception (i.e., crossing State boundaries). This requirement reflects the importance of the driver maintaining eye contact with the road and other vehicles in the traffic stream while driving.

To further support compliance with the hours of service rules, the FHWA has reserved the right in § 395.15(k) to order motor carriers to require drivers to prepare driver's records of duty status by hand, if (1) the motor carrier has a conditional or unsatisfactory safety rating, or (2) the FHWA determines that drivers are (a) exceeding the hours of service limitations of Part 395, (b) failing to accurately and completely record their hours, or (c) tampering with the devices. The alternative provided by Section 395.15 would no longer be available to such motor carrier.

Since the final rule encompasses all the operational aspects incorporated into those recording devices now being used under waiver issued by the FHWA and allows their use, there is no longer a need for motor carriers involved to operate under a waiver. Therefore, the waivers previously issued to certain motor carriers, regarding the use of these devices, are being rescinded as of October 31, 1988.

Due to the revision of § 395.8 of this part and the addition of a new § 395.15 to this part, a conforming technical amendment is being made to § 395.13, Drivers declared out of service. This action takes into account that automatic on-board recording devices may be used to record a driver's record of duty status.

It is anticipated that any economic impact upon the motor carrier industry will be outweighed by the economic benefits derived in the utilization of better operational data produced by the automatic on-board recorder. The motor carrier will have a choice of whether to use the recorder, so any increase in costs is at the carrier's discretion. The FHWA's determination that tachographs can also meet the safety requirements of the rule, permits small carriers to use the devices, in lieu of the handwritten record, but at greatly reduced costs relative to the costs of installing the current generation of on-board computer systems. Furthermore, there are safety benefits expected as a result of increasing numbers of companies using these devices. State enforcement officials will experience increasing productivity in roadside inspection programs as the total number of vehicles equipped with on-board recorders grows. For these reasons and under the criteria of the Regulatory Flexibility Act, it is hereby certified that this action will not have a significant economic impact

on a substantial number of small entities.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2125–0016.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291. However, because of the public interest in commercial motor vehicle safety, this rule is considered significant under the regulatory policies and procedures of the Department of Transportation. For this reason and pursuant to Executive Order 12498, this rulemaking action has been included on the Regulatory Program for significant rulemaking actions.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

The economic impact anticipated as a result of this rulemaking action will be minimal, since this rule merely affords motor carriers an alternative method of complying with an existing safety requirement.

Federalism Assessment

This final regulation amends Part 395 of the FMCSRs to allow motor carriers operating commercial motor vehicles in interstate commerce to use, at their option, certain automatic on-board recording devices to record drivers' hours of service in lieu of the required handwritten record. Nothing in this document directly preempts any State law or regulation. The FMCSRs establish minimum safety regulations which, at the present time, may be supplemented by the States, except for the adoption of inconsistent regulations. The statutory basis for Federal regulation of interstate commerce has been outlined above. A single issue is addressed in this final rule and does not involve policies that have federalism implications. This final rule does not limit the policymaking discretion of the States. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles criteria, and requirements of the Federalism Executive Order.

List of Subjects in 49 CFR Part 395

Highway and roads, Highway safety, Motor Carriers, Driver's hours of service, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: September 27, 1988.

Robert E. Farris,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Part 395 as follows:

PART 395—HOURS OF SERVICE OF DRIVERS [AMENDED]

1. The authority citation for 49 CFR Part 395 is revised to read as follows:

Authority: 49 U.S.C. 3102; 49 U.S.C. App. 2505; and 49 CFR 1.48.

§ 395. [Amended]

2. Section 395.2 is amended by adding a definition of "automatic on-board recording device" as new paragraph (k) to read as follows:

§ 395.2 Definitions.

* * * * *

(k) *Automatic on-board recording device.* An electric, electronic, electromechanical, or mechanical device capable of recording driver's duty status information accurately and automatically as required by § 395.15 of this part. The device must be integrally synchronized with specific operations of the vehicle in which it is installed. As a minimum, the device must record engine use, road speed, miles driven, the date, and time of day.

§ 395.8 [Amended]

3. In § 395.8, paragraphs (a) and (e) are revised to read as follows:

§ 395.8 Driver's record of duty status.

(a) Every motor carrier shall require every driver used by the motor carrier to record his/her duty status for each 24-hour period using the methods prescribed in either paragraphs (a) (1) or (2) of this section.

(1) Every driver who operates a commercial motor vehicle shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded on a specified grid, as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be combined with any company forms. The previously approved format of the Daily Log, Form MCS–59 or the Multi-day Log, MCS–139 and 139A, which meets the requirements of this section, may continue to be used.

(2) Every driver who operates a commercial motor vehicle shall record his/her duty status by using an automatic on-board recording device that meets the requirements of § 395.15 of this part. The requirements of § 395.8 shall not apply, except paragraphs (e) and (k) (1) and (2) of this section.

* * * * *

(e) Failure to complete the record of duty activities of this section or § 395.15, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities shall make the driver and/or the carrier liable to prosecution.

* * * * *

§ 395.13 [Amended]

4. In § 395.13, paragraph (b)(2) is revised to read as follows:

§ 395.13 Drivers declared out of service.

* * * * *

(b) * * *

(2) No driver required to maintain a record of duty status under § 395.8 or § 395.13 of this part shall fail to have a record of duty status current on the day of examination and for the prior 7 consecutive days.

* * * * *

§ 395.15 [Added]

5. Part 395 is amended by adding a new § 395.15 to read as follows:

§ 395.15 [Automatic on-board recording devices.

(a) Authority to use automatic on-board recording device.

(1) A motor carrier may require a driver to use an automatic on-board recording device to record the driver's hours of service in lieu of complying with the requirements of § 395.8 of this part.

(2) Every driver required by a motor carrier to use an automatic on-board recording device shall use such device to record the driver's hours of service.

(b) Information requirements.

(1) Automatic on-board recording devices shall produce, upon demand, a driver's hours of service chart, electronic display, or printout showing the time and sequence of duty status changes including the drivers' starting time at the beginning of each day.

(2) The device shall provide a means whereby authorized Federal, State, or local officials can immediately check the status of a driver's hours of service. This information may be used in conjunction with handwritten or printed records of duty status, for the previous 7 days.

(3) Support systems used in conjunction with on-board recorders at a driver's home terminal or the motor carrier's principal place of business must be capable of providing authorized Federal, State or local officials with summaries of an individual driver's hours of service records, including the information specified in § 395.8(d) of this part. The support systems must also provide information concerning on-board system sensor failures and identification of edited data. Such support systems should meet the information interchange requirements of the American National Standard Code for Information Interchange (ANSCII) (EIARS–232/CCITT V.24 port (National Bureau of Standards "Code for Information Interchange," FIPS PUB 1–1)).

(4) The driver shall have in his/her possession records of duty status for the previous 7 consecutive days available for inspection while on duty. These records shall consist of information stored in and retrievable from the automatic on-board recording device, handwitten records, computer generated records, or any combination thereof.

(5) All hard copies of the driver's record of duty status must be signed by the driver. The driver's signature certifies that the information contained thereon is true and correct.

(c) The duty status and additional information shall be recorded as follows:

(1) "Off duty" or "OFF", or by an identifiable code or character;

(2) "Sleeper berth" or "SB" or by an identifiable code or character (only if the sleeper berth is used);

(3) "Driving" or "D", or by an identifiable code or character; and

(4) "On-duty not driving" or "ON", or by an identifiable code or character.

(5) Date;

(6) Total miles driving today;

(7) Truck or tractor and trailer number;

(8) Name of carrier;

(9) Main office address;

(10) 24-hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.)

(11) Name of co-driver;

(12) Total hours; and

(13) Shipping document number(s), or name of shipper and commodity.

(d) Location of duty status change.

(1) For each change of duty status (e.g., the place and time of reporting for work, starting to drive, on-duty not driving and where released from work), the name of the city, town, or village, with State abbreviation, shall be recorded.

(2) Motor carriers are permitted to use location codes in lieu of the requirements of paragraph (d)(1) of this section. A list of such codes showing all possible location identifiers shall be carried in the vehicle cab and available at the motor carrier's principal place of business. Such lists shall be made available to an enforcement official on request.

(e) Entries made by driver only. If a driver is required to make written entries relating to the driver's duty status, such entries must be legible and in the driver's own handwriting.

(f) Reconstruction of records of duty status. Drivers are required to note any failure of automatic on-board recording devices, and to reconstruct the driver's record of duty status for the current day, and the past 7 days, less any days for whch the drivers have records, and to continue to prepare a handwritten record of all subsequent duty status until the device is again operational.

(g) On-board information. Each vehicle must have on-board the vehicle an information packet containing the following items:

(1) An instruction sheet describing in detail how data may be stored and retrieved from an automatic on-board recording system; and

(2) A supply of blank driver's records of duty status graph-grids sufficient to record the driver's duty status and other related information for the duration of the current trip.

(h) Submission of driver's record of duty status.

(1) The driver shall submit, electronically or by mail, to the employing motor carrier, each record of the driver's duty status within 13 days following the completion of each record;

(2) The driver shall review and verify that all entries are accurate prior to submission to the employing motor carrier; and

(3) The submission of the record of duty status certifies that all entries made by the driver are true and correct.

(i) Performance of recorders. Motor carriers that use automatic on-board recording devices for recording their drivers' records of duty status in lieu of the handwritten record shall ensure that:

(1) A certificate is obtained from the manufacturer certifying that the design of the automatic on-board recorder has been sufficiently tested to meet the requirements of this section and under the conditions it will be used;

(2) The automatic on-board recording device permits duty status to be updated only when the vehicle is at rest, except when registering the time a vehicle crosses a State boundary;

(3) The automatic on-board recording device and associated support systems are, to the maximum extent practicable, tamperproof and do not permit altering of the information collected concerning the driver's hours of service;

(4) No later than October 2, 1989 the automatic on-board recording device warns the driver visually and/or audibly that the device has ceased to function. Devices installed and operational as of October 31, 1988 and authorized to be used in lieu of the handwritten record of duty status by the FHWA are exempted from this requirement.

(5) Automatic on-board recording devices with electronic displays shall have the capability of displaying the following:

(i) Driver's total hours of driving today;

(ii) The total hours on duty today;

(iii) Total miles driving today;

(iv) Total hours on duty for the 7 consecutive day period, including today;

(v) Total hours on duty for the prior 8 consecutive day period, including the present day; and

(vi) The sequential changes in duty status and the times the changes occurred for each driver using the device.

(6) The on-board recorder is capable of recording separately each driver's duty status when there is a multiple-driver operation;

(7) No later than October 2, 1989 the on-board recording device/system identifies sensor failures and edited data when reproduced in printed form. Devices installed and operational as of October 31, 1988 and authorized to be used in lieu of the handwritten record of duty status by the FHWA are exempted from this requirement.

(8) The on-board recording device is maintained and recalibrated in accordance with the manufacturer's specifications;

(9) The motor carrier's drivers are adequately trained regarding the proper operation of the device; and

(10) The motor carrier must maintain a second copy (back-up copy) of the electronic hours-of-service files, by month, in a different physical location than where the original data is stored.

(j) Rescission of authority.

(1) The FHWA may, after notice and opportunity to reply, order any motor carrier or driver to comply with the requirements of § 395.8 of this part.

(2) The FHWA may issue such an order if the FHWA has determined that—

(i) The motor carrier has been issued a conditional or unsatisfactory safety rating by the FHWA;

(ii) The motor carrier has required or permitted a driver to establish, or the driver has established, a pattern of

exceeding the hours of service limitations of § 395.3 of this part;

(iii) The motor carrier has required or permitted a driver to fail, or the driver has failed, to accurately and completely record the driver's hours of service as required in this section; or

(iv) The motor carrier or driver has tampered with or otherwise abused the automatic on-board recording device on any vehicle.

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federal register

Friday
September 30, 1988

Part IX

Department of the Interior

Minerals Management Service

Outer Continental Shelf, Eastern Gulf of Mexico; Oil and Gas Lease Sale 116, Part I and Notice of Leasing Systems, Sale 116, Part I; Notices

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Eastern Gulf of Mexico
Oil and Gas Lease Sale 116, Part I

1. Authority. This Notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1356 (1982)), as amended by the OCS Lands Act Amendments of 1985 (100 Stat. 147) and the regulations issued thereunder (30 CFR Part 256).

2. Filing of Bids. Sealed bids will be received by the Regional Director (RD), Gulf of Mexico (GOM) Region, Minerals Management Service (MMS), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394. Bids may be delivered in person to that address during normal business hours (8 a.m. to 4 p.m., c.s.t.) until the Bid Submission Deadline at 10 a.m., Tuesday, November 15, 1988. All times cited in this Notice refer to Central Standard Time (c.s.t.) unless otherwise stated. Bids will not be accepted on the day of Bid Opening, Wednesday, November 16, 1988. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the RD prior to 10 a.m., Tuesday, November 15, 1988. Bids may not be withdrawn unless written withdrawal is received by the RD prior to 8:30 a.m., Wednesday, November 16, 1988. Bid Opening Time will be 9 a.m., Wednesday, November 16, 1988, at the Marriott Hotel, 555 Canal Street, New Orleans, Louisiana.

All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the Federal Register at 53 FR 10570, published on April 1, 1988.

3. Method of Bidding. A separate bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 116, Part I (insert map number, map name, and block number(s)), not to be opened until 9 a.m., c.s.t., Wednesday, November 16, 1988," must be submitted for each block or prescribed bidding unit bid upon. The company qualification number should appear on the envelope. For example, a label would read as follows: "Sealed Bid for Oil and Gas Lease Sale 116, Part I, NG 16-8, Destin Dome, Block 701, not to be opened until 9 a.m., c.s.t., Wednesday, November 16, 1988, Overthrust Inc. #1093." For those blocks which must be bid upon as a bidding unit

(see paragraph 12), it is recommended that all numbers of blocks comprising the bidding unit appear on the sealed envelope. A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount of the bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior--Minerals Management Service. The company qualification number should also appear on the check together with bid block identification. No bid for less than all of the unleased portions of a block or bidding unit, as referenced in paragraph 12, will be considered. Bidders are advised to use the description "All the Unleased Federal Portions" for those blocks having only aliquot portions currently available for leasing.

All documents must be executed in conformance with signatory authorizations on file. Partnerships also need to submit or have on file in the GOM regional office a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point; e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $25 or more per acre or fraction thereof. All leases awarded will provide for a yearly rental payment of $3 per acre or fraction thereof. All leases will provide for a minimum royalty of $3 per acre or fraction thereof. The bidding systems to be employed for this sale apply to blocks or bidding units as shown on Map 2 (see paragraph 12). The following bidding systems will be used:

(a) Bonus Bidding with a 12 1/2-Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 12 1/2 percent.

(b) Bonus Bidding with a 16 2/3-Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 16 2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline stated in paragraph 2 the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS-2033 (June 1985), and the Affirmative Action Representation Form, Form MMS-2032 (June 1985). See paragraph 14(e).

6. Bid Opening. Bid opening will begin at the Bid Opening Time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of Bid Opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block or bidding unit will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus of $25 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease, pay the balance of the cash bonus bid together with the first year's annual rental, as specified below, and satisfy the bonding requirements of 30 CFR 256, Subpart I. Successful bidders are required to submit the balance of the bonus and the first year's annual rental payment, for each lease issued, by Electronic Funds Transfer (EFT) in accordance with the requirements of 30 CFR 218.155.

11. Official Protraction Diagrams. Blocks or bidding units offered for lease may be located on the following Official Protraction Diagrams which may be purchased from the GOM regional office (see paragraph 14(a)). These diagrams sell for $2 each.

Outer Continental Shelf Official Protraction Diagrams:

NH 16-5	Pensacola	(revised June 2, 1983)
NH 16-8	Destin Dome	(revised December 2, 1976)
NH 16-9	Apalachicola	(revised June 2, 1976)
NH 16-11	De Soto Canyon	(revised December 2, 1976)
NH 16-12	Florida Middle Ground	(revised December 2, 1976)
NH 17-7	Gainesville	(revised June 2, 1983)
NH 17-10	Tarpon Springs	(revised June 2, 1983)
NG 16-2	Lloyd Ridge	(approved November 10, 1983)
NG 16-3	The Elbow	(revised December 2, 1976)
NG 16-5	Henderson	(revised August 22, 1986)
NG 16-6	Vernon Basin	(approved November 10, 1983)
NG 16-8	(no name)	(approved March 3, 1987)
NG 16-11	(no name)	(approved December 16, 1985)
NG 17-1	St. Petersburg	(approved June 2, 1983)
NG 17-4	Charlotte Harbor	(approved June 2, 1983)

12. Description of the Areas Offered for Bids.

(a) Acreages of blocks are shown on Official Protraction Diagrams. Some of these blocks, however, may be partially leased or transected by administrative lines such as the Federal/State jurisdictional line.

In these cases, the following supplemental documents to this Notice are available from the GOM regional office (see paragraph 14(a)).

Eastern Gulf of Mexico Lease Sale 116, Part I, Unleased Split Blocks.

(b) References to Maps 1 and 2 in this Notice refer to the following maps which are available on request from the GOM regional office.

Map 1 entitled "Eastern Gulf of Mexico Lease Sale 116, Part I. Stipulations, Lease Terms, and Warning Areas."

Map 2 entitled "Eastern Gulf of Mexico Lease Sale 116, Part I. Bidding Systems" refers to Royalty Rates.

(c) The areas offered for lease include all blocks shown on the Official Protraction Diagrams listed in paragraph 11 except those blocks in areas marked "Deferred from Bidding" on Map 1 above and blocks described as follows:

BLOCKS DEFERRED FROM LEASING

FROM	TO
Pensacola	
963	963
1007	1008
Destin Dome	
133	148
177	192
221	234
265	279
309	324
353	368
397	412
441	456
485	500
529	544
573	588
618	632
662	676
705	720
749	764
793	808
Apalachicola	
1	4
35	36
45	49
79	81
91	94
122	125
136	138
165	169
181	182
206	213
225	227
249	257
269	271
291	301
313	316
334	345
358	360
377	389
402	405
419	433
447	454
461	477
492	500
503	521
537	564

BLOCKS DEFERRED FROM LEASING

FROM	TO
Apalachicola (Continued)	
585	605
629	647
673	690
717	733
761	775
805	817
849	859
894	900
Gainesville	
1	2
45	47
89	93
133	138
177	183
221	227
265	272
309	317
353	362
397	406
441	450
485	495
529	539
574	585
619	630
663	675
708	719
752	764
797	808
842	853
887	897
932	941
977	987
Florida Middle Ground	
251	251
295	295
339	340
342	342
383	386
427	430
471	474
515	518
560	561
Tarpon Springs	
9	23
53	67
98	111
142	155
187	199
232	244
277	288
323	332
368	377
412	421
455	464
498	508
542	552
585	596
629	640
673	682
717	725
761	769
805	813
849	857
893	901
937	945
981	989
St. Petersburg	
13	21
57	65
101	109
145	153
189	198
233	243
277	287
322	331
366	375
410	419
455	463
499	508
543	552
587	596
632	641
676	686
721	731
765	775
809	820
854	864
899	909
988	998

BLOCKS DEFERRED FROM LEASING

FROM	TO
Charlotte Harbor	
21	30
65	75
110	119
154	164
199	208
243	253
288	297
332	341
377	385
421	430
465	474
509	518
554	563
598	607
642	653
687	699
701	701
731	746
776	790
820	834
865	878
910	922
955	966
999	1011

EASTERN GULF OF MEXICO LEASED LANDS

Descriptions of Blocks Listed Represent All Federal Acreage Leased Unless Otherwise Noted

Pensacola	Destin Dome (continued)	Destin Dome (continued)	Florida Middle Ground
837(Landward of 8(g) Line)	78	511	411
881	81	555	412
904	82	556	455
906	96	617	456
907	97	639	499
925	99	661	500
948	100	683	543
949	109	684	587
952	111	731	
969	112	775	
970	113	776	
971	114		
989	115	De Soto Canyon	
990	116	249	
991	154	250	
996	155	251	
	158	337	
Destin Dome	159	338	
1	160	339	
2	161	378	
3	166	379	
4	167	422	
12	199	423	
15	200	424	
16	201	427	
21	203	466	
22	204	467	
23	205	468	
24	208	469	
37	235	472	
38	236	476	
45	240	511	
46	280	512	
55	284	513	
56	285	516	
57	328	517	
64	329	520	
65	375	521	
66	376	555	
67	378	556	
68	419	557	
69	421	600	
77	422	656	
	458	657	
	460	700	
	502	744	

Although currently unleased, no bids will be accepted on the following blocks which were bid on in Sale 94 and are pending lease award:

Pensacola	
769	870
822 Landward of 8(g) line	871
823	914
866	915 Landward of 8(g) line
	958

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale will have initial terms as shown on Map 1 and will be on Form MMS-2005 (March 1986). Copies of the lease form are available from the GOM regional office (see paragraph 14(a)).

(b) The applicability of the stipulations which follow is as shown on Map 1 and as supplemented by references in this Notice.

Stipulation No. 1

Protection of Archaeological Resources

(This stipulation will apply to all blocks offered for lease in this sale.)

(a) "Archaeological resource" means any prehistoric or historic district, site, building, structure, or object (including shipwrecks); such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object. (16 U.S.C. 470w(5), National Historic Preservation Act, as amended.) "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Director (RD) believes an archaeological resource may exist in the lease area, the RD will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RD, to determine the potential existence of any archaeological resource that may be affected by operations. The report, prepared by an archaeologist and geophysicist, shall be based on an assessment of data from remote sensing surveys and of other pertinent archaeological and environmental information. The lessee shall submit this report to the RD for review.

(2) If the evidence suggests that an archaeological resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the archaeological resource may be; or

(ii) Establish to the satisfaction of the RD that an archaeological resource does not exist or will not be adversely affected by operations. This shall be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RD. A report on the investigation shall be submitted to the RD for review.

(3) If the RD determines that an archaeological resource is likely to be present in the lease area and may be adversely affected by operations, the RD will notify the lessee immediately. The lessee shall take no action that may adversely affect the archaeological resource until the RD has told the lessee how to protect it.

(c) If the lessee discovers any archaeological resource while conducting operations on the lease area, the lessee shall report the discovery immediately to the RD. The lessee shall make every reasonable effort to preserve the archaeological resource until the RD has told the lessee how to protect it.

Stipulation No. 2

Live Bottom Areas

(To be included on leases on blocks in water depths of 100 meters or less as shown on Map 1.)

For the purpose of this stipulation, "live bottom areas" are defined as seagrass communities or those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or areas whose lithotope favors the accumulation of turtles, fishes, and other fauna.

Prior to any drilling activities or the construction or placement of any structure for exploration or development on this lease, including, but not limited to, well drilling and pipeline and platform placement, the lessee will submit to the Regional Director (RD) a live bottom survey report containing a bathymetry map prepared utilizing remote sensing techniques and an interpretation of live bottom areas prepared from a photodocumentation survey.

The live bottom survey report, including the attendant surveys, will encompass an area within a minimum 1,000-meter distance of a proposed activity site.

If it is determined that live bottom areas might be adversely impacted by the proposed activity, then the RD will require the lessee to undertake the measures deemed economically, environmentally, and technically appropriate to protect live bottom areas. These measures may include, but are not limited to, the following:

(a) the relocation of operations to avoid live bottom areas,

(b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas,

(c) the transportation of drilling fluids and cuttings to approved disposal sites, and

(d) the monitoring of live bottom areas to assess the adequacy of any mitigating measures taken and the impact of lease initiated activities.

Stipulation No. 3

Military Areas

(The hold and save harmless, electromagnetic emissions, and operational clauses of the following stipulation will apply to all Sale 116, Part I, blocks leased within a military warning or water test area.)

Hold and Save Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf (OCS), to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the OCS, if such injury or damage to such person or property occurs by reason of the activities of any agency of the United States, its contractors or subcontractors, or any of its officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the table below.

Notwithstanding any limitation of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its

contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, or to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

Electromagnetic Emissions

The lessee agrees to control its own electromagnetic emissions and those of its agents, employees, invitees, independent contractors or subcontractors emanating from individual designated Department of Defense (DOD) warning areas in accordance with requirements specified by the commander of the command headquarters listed in the table below to the degree necessary to prevent damage to, or unacceptable interference with DOD flight, testing, or operational activities, conducted within individual designated warning areas. Necessary monitoring control and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, or independent contractors, or subcontractors and onshore facilities.

Operational

The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic in the individual designated warning areas, shall enter into an agreement with the commander of the individual command headquarters listed below upon utilizing an individual designated warning area prior to commencing such traffic. Such an agreement will provide for positive control of boats, ships, and aircraft operating in the warning areas at all times.

Evacuation

When the activities of the Armament Development and Test Center at Eglin Air Force Base, Florida, may endanger personnel or property, the lessee agrees, upon receipt of a directive from the Regional Director (RD), to evacuate all personnel from all structures on the

lease and to shut-in and secure all wells and other equipment, including pipelines, on the lease, within 48 hours or within such longer period as may be specified by the directive. Such directive shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than 72 hours; however, such a period of time may be extended by a subsequent directive from the RD. Equipment and structures may remain in place on the lease during such time as the directive remains in effect.

Warning Areas' Command Headquarters

Eastern Planning Area

Warning Area	Command Headquarters	Remarks
W-151, W-168, W-470, Eglin Water Test Areas 1-5	Commander, Armament Division Attention: Mr. Aubrey Freeman 3246th Test Wing/CA Eglin AFB, Florida 32542 Telephone: (904) 882-5558	Overall Operational Control
W-151, Naval Coastal Systems Center (NCSC) Area	Naval Coastal Systems Center/Code 30 Attention: Commander Buckley or Mr. Ed Higdon Panama City, Florida 32407 Telephone: (904) 234-4626/4280	Periodic Testing Stand Down
W-155	Chief, Naval Air Training Naval Air Station Attention: Lt. Co. C. B. Lockett, USMC or Lt. J. L. Keith Corpus Christi, Texas 78419-5100 Telephone: (512) 939-3927/3902	For Agreement
W-155	Fleet Area Control & Surveillance Facility (FACSFAC) Naval Air Station Attention: Chief Lyon Pensacola, Florida 32508 Telephone: (904) 452-2735/4671	For Surface Operational Control
W-155	Naval Air Training Command Training Wing Six Naval Air Station Attention: Lt. Cmdr. Guy Vollundorf Pensacola, Florida 32508 Telephone: (904) 452-2305	Administrative Functions & Filing Plans/ Operations

Stipulation No. 4

Oil Spill Response Stipulation for 64 Outer Cape San Blas Blocks

(This stipulation will apply to the following 64 blocks: NH 16-9, Apalachicola 89-90, 133-135, 177-180, 222-224, 266-268, 311-312, 355-357, 399-401, 444-446, 488-491, 533-536, 578-584, 623-628, 669-672, 713-716, 757-760, 801-804, and 848.)

A. Delay in Exploration

There will be a 1-year delay from the date of Sale 116, Part I, before the Regional Director will permit exploration to proceed on these blocks. Therefore, leases resulting from this sale on these blocks will be suspended from the date of lease issuance until 1 year from the date of bid opening. This 1-year delay period will be utilized to conduct an oil spill trajectory analysis for the subject area.

B. Exploration Activity

(1) Lessees conducting exploratory operations within this area will be required to be capable of immediate deployment and operation of state-of-the-art offshore oil spill cleanup equipment within the context of standards set by the requirement to employ best available and safest technologies (BAST). In addition to the equipment and materials which will be required to be available to the operator at the spill response base, adequate cleanup and containment equipment and materials will be required at the drill site before drilling out of the deepest proposed casing that is set above the Smackover formation and maintained while drilling operations are in progress. At a minimum, such equipment will consist of an oil spill response vessel equipped with (within the context of BAST):

a) a Fast Response System,

b) 750 feet of open ocean boom,

c) a skimmer, crane, and oil-water separator system suitable for use with the boom,

d) a minimum of 100 barrels of storage capacity for recovered oil suitable for use with the boom,

e) a motor vessel sufficient to accomplish boom deployment, and

f) 5 bales of sorbent pads.

A determination of compliance with this provision will be made by the Regional Director.

To handle small spills at drill sites located in this area, the lessee will be required to maintain 200 feet of sorbent boom and a means for deployment and disposal at the rig/platform site. The operator must be able to provide containment and cleanup capabilities both at the drill site and in the surrounding waters.

(2) Based upon the results of the oil spill trajectory analysis modeling, lessees conducting exploratory activities within these blocks will maintain nearshore oil spill cleanup and containment equipment at an approved oil spill equipment base. This equipment must be adequate for the protection of the coastal areas adjacent to these blocks and will be staged at onshore locations which will result in the operator being able to meet response times which are identified based on the results of the oil spill trajectory analysis. Required equipment may include containment, swamp, and sorbent type booms and any other type of oil spill containment/cleanup equipment determined necessary to protect the coastal wetlands, estuaries (including oyster beds), and recreational beaches in the area.

Actual requirements imposed by the Minerals Management Service (MMS) as to location, type, and size of onshore equipment for oil spill cleanup and containment will be developed utilizing a containment/cleanup plan developed specifically for this area and addressing the natural and economic resource values, location, and susceptibility of the area including the Apalachicola Bay and Estuarine Sanctuary System. Such a plan will be developed by MMS in conjunction with the lessee and will be in place by November 1989. All exploration plans submitted for leases resulting from this sale shall adhere to the requirements outlined in this containment/cleanup plan.

(3) Lessees conducting exploratory activities will be required to maintain at an approved oil spill equipment base state-of-the-art chemicals (dispersants) and chemical application equipment and have established plans approved by affected Federal Agencies, for their rapid application, if needed. Such equipment will include but not be limited to:

1. One dispersant sprayer system (capable of use on a supply vessel),

2. One Helicopter Underslung Sprayer System (HUSS),

3. One 180-bbl dispersant transportation system,

4. Ninety-eight drums of dispersant appropriate for use in the area, and

5. Two drums of surface oil-collecting agent.

(4) Requirements for oil spill cleanup and containment equipment located at an approved equipment base are not limited to the requirements set forth in this stipulation. The operator will be required to fully discuss their compliance with the requirements of this stipulation in the exploration plans submitted for this area.

C. Production Activity

Specific oil spill cleanup and containment requirements for production activity will be developed based upon the results of exploratory drilling in this area. Information regarding the geologic formations and the characteristics of hydrocarbons discovered in this area will be considered in the development of these measures.

Stipulation No. 5

Restriction on Exploration Activity

(The following stipulation will apply to blocks within warning areas W-151, W-470, W-168, and Eglin Water Test Areas 1, 2, 3 and 4.)

The placement, location, and planned periods of operation of surface structures on this lease during the exploration stage are subject to approval by the Regional Director (RD) after the review of an operator's Plan of Exploration (POE). Prior to approval of the POE, the RD shall consult with the Commander, Armament Division, Eglin Air Force Base, Florida, and the Commanding Officer, Naval Command Systems Center, Panama City, Florida, in order to determine the location and density of such structures, and to maximize exploration while minimizing conflicts with Department of Defense activities. A POE will be disapproved in accordance with 30 CFR 250.33(i)(3) if it is determined that the proposed operations will result in interference with scheduled military missions in such a manner as to possibly jeopardize the national defense or to pose unacceptable risks to life and property. Moreover, if there is a serious threat of harm or damage to life or property, or if it is in the interest of national security or defense, approved operations may be suspended in accordance with 30 CFR 250.10(b)(2) and (3). The term of the lease will be extended to cover the period of such suspension or prohibition. It is recognized that the issuance of a lease conveys the right to the lessee as provided in section 8(b)(4) of the Outer Continental Shelf Lands Act to engage in exploration, development, and production activities conditioned upon other statutory and regulatory requirements.

Stipulation No. 6

Oil Spill Response Stipulation for 168 Panhandle Blocks

(This stipulation will apply to blocks located off the Florida Panhandle in the Eastern Gulf of Mexico as shown on Map 1.)

A. Mechanical Oil Spill Cleanup and Containment Equipment

The operator will be required to locate state-of-the-art mechanical oil spill cleanup and containment equipment so that response to an oil spill could be accomplished within the timeframes specified in this stipulation. Exploratory and development activities being conducted in the geographical areas delineated as Areas A and B on Map 1 require the following response time requirements:

1. Area A

Operators conducting exploratory and/or development operations within Area A will be required to be capable of immediate deployment and operation of oil spill cleanup equipment within the context of best available and safest technologies (BAST). In addition to the equipment and materials which will be required to be available to the operator at the spill response base, the following mechanical oil spill cleanup and containment equipment and materials will be required at the drill site before drilling out of the deepest proposed casing that is set above the Smackover formation:

One dedicated oil spill response vessel equipped with (within the context of BAST):

a) a Fast Response System,

b) 750 feet of open ocean boom,

c) a skimmer, crane, and oil-water-separator system suitable for use with the boom,

d) a minimum of 100 barrels of storage capacity for recovered oil suitable for use with the boom,

e) a small vessel to assist in boom deployment, and

f) 5 bales of sorbent pads.

2. Area B

Those operators conducting exploratory or development activities within Area B will be required, prior to drilling out of the

deepest proposed casing that is set above the Smackover formation and maintained while drilling operations are in progress, and be capable of deploying and operating the following mechanical oil spill cleanup and containment equipment and materials within 8 hours of a spill event an oil spill response vessel equipped with (within the context of BAST):

a) a Fast Response System,

b) 750 feet of open ocean boom,

c) a skimmer, crane, and oil-water-separator system suitable for use with the boom,

d) a minimum of 100 barrels of storage capacity for recovered oil suitable for use with the boom,

e) a small vessel to assist in boom deployment, and

f) 5 bales of sorbent pads.

To handle small spills at drill sites located in Area B, the operator will be required to maintain 200 feet of sorbent boom and a means for deployment at the rig/platform site.

B. Chemicals and Chemical Application Equipment

Those operators conducting exploratory or development activities within Areas A and/or B as delineated on Map 1 will be required to maintain at an approved oil spill equipment base state-of-the-art approved chemicals (dispersants) and chemical application equipment and have established plans, approved by affected Federal Agencies, for their rapid use if needed. Such equipment will include but not be limited to:

1. One dispersant sprayer system (capable of use on a supply vessel),

2. One Helicopter Underslung Sprayer System,

3. One 180-bbl dispersant transportation system,

4. Ninety-eight drums of dispersant appropriate for use in the area, and

5. Two drums of surface oil-collecting agent.

C. Operational Standards

The operator or a representative(s) will be required to be capable of suitably deploying the equipment required by this stipulation and must retain personnel capable of maintaining and using such equipment. The operator will be required annually by the Minerals Management Service to demonstrate equipment and personnel deployment capabilities.

In the event that the operator wishes to replace or substitute any equipment, the operator must be able to demonstrate that the capabilities of the new equipment meet or exceed that of the equipment required by this stipulation in the context of BAST. Oil spill cleanup and containment equipment located at an approved oil spill equipment base is not limited to the requirements set forth in this stipulation.

The operators will be required to fully discuss their compliance with the requirements of this stipulation in the exploration and development plans submitted for this area.

14. Information to Lessees.

(a) Information on Supplemental Documents

To obtain copies of the various documents identified as available from the Gulf of Mexico regional office, prospective bidders should contact the Public Information Unit, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, either in writing or by telephone, (504) 736-2519. For additional information, contact the Regional Supervisor for Leasing and Environment at that address or by telephone at (504) 736-2755.

(b) Information on Navigation Safety

Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended. The U.S. Army Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

(c) Information on Offshore Pipelines

Bidders are advised that the Department of the Interior and the Department of Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines.

Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) Information on 8-Year Leases

Bidders are advised that any lease issued for a term of 8 years will be cancelled after 5 years, following notice pursuant to the OCS Lands Act, as amended, if within the initial 5-year period of the lease, the drilling of an exploratory well has not been initiated, or if initiated, the well has not been drilled in conformance with the approved exploration plan criteria, or if there is not a suspension of operations in effect, etc. Bidders are referred to 30 CFR 256.37(a)(2).

(e) Information on Affirmative Action

Revision of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) has been deferred pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS-2005, March 1986) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in the Notice of Sale contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Submission of Form MMS-2032 (June 1985) and Form MMS-2033 (June 1985) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(f) Information on Ordnance Disposal Areas

The Air Force has released an indeterminable amount of unexploded ordnance throughout Warning Areas 151, 168, and 470 and Eglin Water Test Areas (EWTA) 1 through 5. The exact location of this unexploded ordnance is unknown, and lessees are advised that all lease blocks in this sale should be considered potentially hazardous to drilling and platform and pipeline placement.

(g) Information on Navy Operations

(The following Information to Lessees clause (ITL) applies to the following blocks: NH 16-5, Pensacola, 728, 772-778, 816-825, 860-872, 904-917, 950-951, 953-962, 992-995 and 997-1006; NH 16-9, Apalachicola, 221, 265, 309-310, 353-354, 397-398, 441-443, 485-487 and 529-532; and NH 16-8, Destin Dome, 24-36, 68-80, 112-113, 117-126, 157, 162-165, 168-170, 201-202, 206-214, 246-258, 290-302, 335-346, 380-390, 425-434, 470-478, 514-522, and 561-566.)

The Navy advises that its Naval Coastal Systems Center (NCSC) conducts testing between April and October with peak operating

months during the summer. During this period, oil companies may be requested to stand down from activity for 5- to 10-day periods (to a maximum of 15 days) as determined by the NCSC testing schedule.

(h) Information on Revision to Military Warning Area 155

Bidders are advised that the Federal Aviation Administration has amended Warning Area 155 (W-155) in the vicinity of Pensacola, Florida, and established an additional warning area (W-155B) directly to the south of the original W-155. This additional warning area was originally within Eglin Water Test Area 1. The military point of contact will be the U.S. Navy.

(i) Information to Lessees on the Potential for Existence of Deepwater Live Bottom Areas in the Eastern Gulf of Mexico

Lessees are advised that the State of Florida has expressed concern about the possible existence of live bottom areas in water depths greater than 100 meters within the Eastern Gulf of Mexico. The State has advised that it may reexamine the issue of protection of such resources during its review of the consistency of exploration or development and production plans with provisions of its approved coastal zone management plan.

(j) Information on Protection of the West Indian Manatee

Bidders are advised that the West Indian manatee is a marine mammal which is officially listed as an endangered species by the Department. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407), and various other State and Federal laws and regulations. On October 22, 1979 (44 FR 60963), the Department promulgated regulations (50 CFR 17.100-17.108) providing for the establishment of manatee protection areas. Also, the Florida Manatee Sanctuary Act of 1978 declares the entire State of Florida a "refuge and sanctuary for the manatee." A Cooperative Agreement between the Department and the State of Florida on endangered species became effective on June 23, 1976.

(k) Information on Oil Spill Modeling

We have been advised by the State of Florida that it may request site-specific oil spill trajectory modeling as part of the coastal zone consistency concurrence process.

(l) Information on Deferral of Payment of Balance of Bonus

Bidders on blocks subject to Military Areas Stipulation No. 5

(Restriction on Exploration Activity) should carefully review paragraph 15 (Military Activities) of this Notice.

15. Military Activities. The U.S. Air Force (USAF) has three major air bases in Florida that use most of the Eastern Gulf of Mexico for research, development, testing, and evaluation of advanced tactical air-to-air and air-to-surface weapons systems. These air bases are Eglin Air Force Base, Tyndall Air Force Base, and McDill Air Force Base. The only Air Force test location large enough to meet the requirements of these bases is the eastern gulf. The types of missions conducted by the USAF involve flying from extremely high altitudes to very low altitudes at very high speeds. Safe and effective testing of most of these systems can be performed only over large expanses of water, subject to surveillance and monitoring control by strategically located land/water/airborne tracking facilities.

The intrinsic danger to the oil industry offshore is the occurrence of falling debris as drone planes are shot down or exploded, dropping of ordnance, low-flying planes, and offshore-to-onshore and vice versa testing of weapons and tactical testing missions. Threats to life and property could exist if proper precautionary measures are not undertaken for OCS structures and operations in the area.

Therefore, a stipulation (stipulation No. 5) which will restrict the timing and location of exploration activities will be included in any leases shown on Map 1 within Military Warning Areas W-151, W-168, W-470, and EWTA 1, 2, 3 and 4. There is concern over the military restrictions imposed on leases in the eastern gulf, particularly with regard to the delays involved in operating on leases outside of areas made available for drilling following Lease Sale 94 (December 18, 1985), the most recent sale in the eastern gulf. As a consequence of this concern, a bid for any block shown or Map 1 within Military Warning Areas W-151, W-168, W-470, and EWTA 1, 2, 3, and 4 will be subject to different procedures from those otherwise identified in this Notice.

After the MMS completes its bid adequacy review, it will notify bidders of the results of this review. If a high bid is determined to be inadequate, it will be rejected, and the bidder's deposit will be returned with interest, as prescribed in 30 CFR 218.155. If a bid is determined to be adequate, the bidder will be so notified and will be required to furnish a corporate surety bond in a sum equal to the balance of the cash bonus bid, as directed by the authorized officer. However, this notification and requirement will not constitute acceptance of the bid. Upon filing the surety bond as directed, the bidder is liable for payment of the four-fifths bonus unless the bid is subsequently rejected. No bid will be accepted until the United States determines that it is in its best interest to do so.

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When the removal of the restriction on the initiation of exploration activities on a block or area occurs, it will be considered to be in the best interests of the United States to accept a bid for a lease on that particular block. At such time, the authorized officer will promptly accept the high bid submitted on the block and require the bidder to execute the lease, submit the remaining four-fifths bonus and the first year's rental by EFT, and file a bond as prescribed in 30 CFR 256.47(f). Failure to pay the remaining four-fifths bonus in a timely manner will be deemed to render the bidder in default of the bid payment, enabling the United States to obtain payment of the outstanding bonus from the bidder's surety. The four-fifths bonus and the first year's rental must be paid by EFT using the procedure described in paragraph 10 of this Notice. The Federal Reserve Bank of New York must receive the EFT payment no later than noon, Eastern Standard Time, on the 11th business day after receipt of the notice of bid acceptance. The term "business day" is defined as a day on which the Gulf of Mexico regional office is open for business.

At such time as the United States may determine that it would not be in its best interests to accept a bid, the MMS shall reject such bid for a lease within the above-referenced Military Warning Areas and EWTA and refund the bid deposit with interest, in accordance with 30 CFR 218.155. In any event, if the authorized officer does not accept the bid within 5 years after the date of the lease sale, the MMS shall reject such bid and return the bid deposit to the bidder with actual interest earned.

Authority for the procedures in this paragraph is in 30 CFR 218.155, 256.46(b), 256.47(e)(2), 256.58(g)(2), and 256.59.

16. New Regulatory Provisions. The regulatory reference to provisions in 30 CFR Part 250 cited in this document refer to the new MMS "Oil and Gas and Sulphur Operations in the Outer Continental Shelf." They were published in the Federal Register at 53 FR 10595 on April 1, 1988. This Notice is provided to bidders since any leases issued as a result of this sale will be subject to the April 1, 1988, regulations (not those existing in the 30 CFR Part 250, revised as of July 1, 1987, which may be in conflict with the new regulations).

Director, Minerals Management Service
William D. Bettenberg

Approved:

Assistant Secretary - Land and Minerals Management
J. Steven Griles

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf
Eastern Gulf of Mexico

Notice of Leasing Systems, Sale 116, Part I

Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the Federal Register:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This Notice is published pursuant to these requirements.

1. Bidding systems to be used. In the Outer Continental Shelf (OCS) Sale 116, Part I, blocks will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)): (a) bonus bidding with a fixed 16 2/3-percent royalty on all unleased blocks in less than 400 meters of water; and (b) bonus bidding with a fixed 12 1/2-percent royalty on all remaining unleased blocks.

a. Bonus Bidding with a 16 2/3-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments but may yield more rewards if a commercial field is discovered. The relatively high front-end bonus payments may encourage rapid exploration.

b. Bonus Bidding with a 12 1/2-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA. It has been chosen for certain deeper water blocks proposed for the Eastern Gulf of Mexico (Sale 116, Part I) because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water blocks. Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high-cost areas under a 12 1/2-percent royalty system would be less than for the same blocks under a 16 2/3-percent royalty system. As a result, more blocks may be explored and developed. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary constraints to competition.

2. Designation of Blocks. The selection of blocks to be offered under the two systems was based on the following factors:

a. Lease terms on adjacent, previously leased blocks were considered to enhance orderly development of each field.

b. Blocks in deep water were selected for the 12 1/2-percent royalty system based on the favorable performance of this system in these high-cost areas as evidenced in our analyses.

The specific blocks to be offered under each system are shown on Map 2 entitled "Eastern Gulf of Mexico Lease Sale 116, Part I - Final, Bidding Systems and Bidding Units." This map is available from the Minerals Management Service, Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394.

Wm D Bettenberg
Director, Minerals Management Service
William D. Bettenberg

Approved:

/s/ J. Steven Griles
Assistant Secretary - Land and Minerals Management
J. Steven Griles

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H.J. Res. 518/Pub. L. 100-444

Designating the week of September 25, 1988, as "Religicus Freedom Week." (Sept. 26, 1988; 102 Stat. 1772; 1 page) Price; $1.00

S.J. Res. 290/Pub. L. 100-445

To designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week." (Sept. 26, 1988; 102 Stat. 1773; 1 page) Price: $1.00

H.R. 4867/Pub. L. 100-446

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes. (Sept. 27, 1988; 102 Stat. 1774; 55 pages) Price: $1.50

H.R. 4586/Pub. L. 100-447

Marking appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes. (Sept. 27, 1988; 102 Stat. 1829; 7 pages) Price: $1.00

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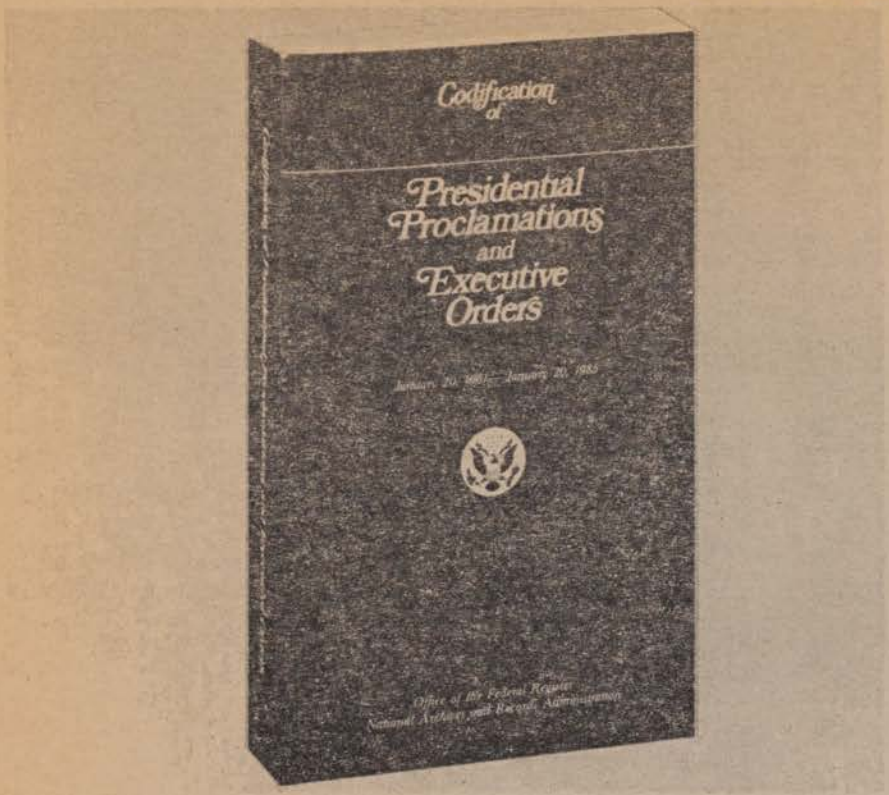

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