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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 99–054–2]

Spanish Pure Breed Horses From Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the animal import regulations to allow Spanish Pure Breed horses from Spain to be imported into the United States under the same preexport testing and quarantine conditions that apply to thoroughbred horses from regions in which contagious equine metritis exists or may exist. This action will relieve some restrictions on the importation of Spanish Pure Breed horses into the United States while continuing to protect against the introduction and dissemination of contagious equine metritis.

EFFECTIVE DATE: August 16, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Gary S. Colgrove, Assistant Director, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart C—Horses, §§ 93.300 through 93.326 of the regulations, pertains to the importation of horses

into the United States. Section 93.301 of the regulations contains specific provisions for the quarantine and testing of horses from regions affected with contagious equine metritis (CEM), a highly contagious bacterial venereal disease that affects breeding and fertility. Section 93.301 also identifies regions where CEM exists and regions that trade horses freely with those where CEM exists without testing for CEM. Section 93.301 prohibits, with certain exceptions, the importation of horses into the United States from those areas. The European Union—of which Spain is a Member State—is listed in § 93.301 as a region where CEM exists or may exist.

On April 3, 2000, we published in the *Federal Register* (65 FR 17455–17458, Docket No. 99–054–1) a proposal to amend the animal importation regulations by allowing Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. Specifically, the regulations previously provided that Spanish Pure Breed horses other than geldings, weanlings, and yearlings could be imported for permanent entry into the United States only in accordance with § 93.301(e), which requires preexport testing, Federal quarantine upon arrival, and further quarantine in a State approved to receive horses from listed regions. Under the proposal, imported Spanish Pure Breed stallions and mares that are more than 731 days old—like thoroughbred horses from France, Germany, Ireland, and the United Kingdom—that have tested negative for CEM in the country of origin and have undergone Federal quarantine upon arrival in the United States would not be subject to additional quarantine, testing, and treatment within an approved State. In addition, we proposed to add Spain's Servicio de Cria Caballar y Remonta as a breed association specifically approved by the U.S. Department of Agriculture to provide factual, current information regarding the activities of Spanish Pure Breed horses.

We solicited comments concerning our proposal for 60 days ending June 2, 2000. We received one comment by that date. The commenter, an importer of Spanish horses, expressed support for our proposal, stating that the proposed

changes would help his industry. However, the commenter also asserted that our requirement that mares over 2 years old undergo Federal quarantine upon arrival in the United States was illogical and needlessly expensive, since Spanish veterinarians test and inspect the animals for CEM prior to export, and Spain is considered free of the disease.

We are making no changes to the final rule based on this comment. While we agree with the commenter that CEM presents a negligible risk in imported Spanish Pure Breed horses, with certain exceptions, all horses intended for permanent entry into the United States are also required to be detained under Federal quarantine while official tests for dourine, glanders, equine piroplasmiasis, and equine infectious anemia are conducted. The animals must test negative for all of these diseases and be found by an Animal and Plant Health Inspection Service (APHIS) veterinarian to be free from any clinical evidence of disease before they can be released from quarantine. Because of the serious nature of these diseases, we believe that these requirements continue to be necessary to ensure that infected horses do not enter this country and jeopardize the health of the U.S. horse population.

CEM is difficult to diagnose and control, and infected horses of both sexes are often asymptomatic. Repeated sampling, at appropriate time intervals, constitutes the only satisfactory means of determining CEM status in horses. Therefore, we also must continue to require that all horses that have tested positive for CEM prior to importation—despite the fact that they must subsequently have been treated, tested, and found negative for the disease before being exported to the United States—undergo further quarantine, treatment, and repeated testing in a State approved to receive them upon completion of the Federal quarantine. Spanish Pure Breed horses that have tested positive for CEM prior to export and, upon treatment and retesting, been found free of the disease would still have to undergo treatment within a State approved to receive such horses. However, this action will save importers of Spanish Pure Breed horses that have tested negative to the disease prior to export and have undergone the requisite Federal quarantine the additional costs

that would be associated with further, in-State quarantine and testing.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. By allowing Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from certain other regions where contagious equine metritis exists or may exist, this rule will make the importation of Spanish Pure Breed horses less expensive for U.S. importers. We have determined that approximately 2 weeks are needed to ensure that APHIS personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of APHIS has determined that this rule should be made effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule amends the regulations in 9 CFR part 93 to allow Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. We are taking this action in response to a request we have received from Spain's Equine Breeding Service to relieve some of the restrictions on the importation of Spanish Pure Breed horses from Spain since the life histories and medical records of these horses can be certified by Spanish Government veterinarians.

In 1997, there were 375,218 farms in the United States keeping 2,427,277 horses of all kinds. Approximately 79,516 farms sold 325,306 horses, receiving \$1.03 billion in sale revenues. Approximately 98 percent of the farms that sold horses have less than \$500,000 in annual revenue and, therefore, are considered small entities by the U.S. Small Business Administration.

U.S. importers and breeders of Spanish Pure Breed horses will be affected by this rule. This rule will make

it less expensive for importers to import Spanish Pure Breed horses from Spain.

There are approximately 270 domestic breeders of Spanish Pure Breed horses in the United States, most of which are likely to be small entities. In 1998, there were approximately 2,500 Spanish Pure Breed horses in the United States, and only 225 foals were registered that year.

In 1995 and 1996, 4 horses (not all of which were Spanish Pure Breed horses) were imported into the United States from Spain; there were 21 horses in 1997, 39 in 1998, and 46 in 1999. Under this rule, we estimate that the number of Spanish Pure Breed horses imported into the United States from Spain will most likely increase to an average of about 60 per year, for the next 3 to 5 years, with a maximum of 100 in any given year.

Currently, the demand for Spanish Pure Breed horses in the United States is greater than can be supplied by domestic breeders and the small number of these horses imported from Costa Rica, Mexico, and Spain. In 1997, 225 Spanish Pure Breed foals were registered in the United States, while a total of 50 were imported into the United States from all over the world, despite the high costs of shipping (approximately \$5,000 per horse for air freight plus insurance against mortality, figured at 1 percent of the horse's declared value), quarantine, and testing. Because domestic Spanish Pure Breed horses are less expensive than imports, the demand for domestic Spanish Pure Breed horses should not decrease as a result of this rule. This rule will help satisfy the growing demand for the horses in the United States and make it less expensive for U.S. breeders and importers to obtain them from Spain.

We do not expect domestic breeders of Spanish Pure Breed horses to be affected by this rule, since the demand in the United States for Spanish Pure Breed horses is greater than the domestic supply and since domestic Spanish Pure Breed horses will still be less expensive than imported ones.

Under these circumstances, the Administrator of APHIS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0152.

List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 93 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 is revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. Section 93.301 is amended as follows:

a. In footnote 6, by adding the words "Servicio de Cria Caballar y Remonta for Spain;" immediately after the word "Department:".

b. By revising paragraph (c)(2)(v), the heading to paragraph (d), and the introductory text in paragraph (d)(1).

c. In paragraph (d)(1)(ii)(D), the first sentence, by removing the words "For thoroughbred horses" and adding the words "For Spanish Pure Breed horses and thoroughbred horses" in their place.

d. In paragraph (d)(3), by removing the words "Thoroughbred horses" and adding the words "Spanish Pure Breed horses and thoroughbred horses" in their place each time they appear.

§ 93.301 General prohibitions; exceptions.

* * * * *

(c) * * *

(2) * * *

(v) Spanish Pure Breed horses imported for permanent entry from Spain or thoroughbred horses imported for permanent entry from France, Germany, Ireland, or the United Kingdom if the horses meet the requirements of paragraph (d) of this section;

* * * * *

(d) *Spanish Pure Breed horses from Spain and thoroughbred horses from France, Germany, Ireland, and the United Kingdom.* (1) Spanish Pure Breed

horses from Spain and thoroughbred horses from France, Germany, Ireland, and the United Kingdom may be imported for permanent entry if the horses meet the following requirements:

* * * * *

Done in Washington, DC, this 25th day of July 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-19380 Filed 7-31-00; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-249-AD; Amendment 39-11839; AD 95-19-08 R1]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 727-100 and -200 Series Airplanes Equipped With an Engine Nose Cowl for Engine Numbers 1 and 3, Installed in Accordance With Supplemental Type Certificate (STC) SA4363NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 727-100 and -200 series airplanes, that currently requires replacing the attaching nutplates on certain engine nose cowls with washers and self-locking nuts. This amendment changes the responsible office for approval of an alternative method of compliance. This amendment is prompted by the transfer of the supplemental type certificate. The actions specified in this AD are intended to prevent the attach bolts from becoming loose, which could result in subsequent separation of the nose cowl from the engine.

DATES: Effective August 16, 2000.

The incorporation by reference of certain publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of October 20, 1995 (60 FR 48630, September 20, 1995).

Comments for inclusion in the Rules Docket must be received on or before October 2, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-

249-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000-NM-249-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from VALSAN Partnership Ltd., Aviation Products Management, Product Support Office, 39450 Third Street East, suite 121, Palmdale, California 93550.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5320; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: On September 7, 1995, the FAA issued AD 95-19-08, amendment 39-9370 (60 FR 48630, September 20, 1995), applicable to certain Boeing Model 727-100 and -200 series airplanes, to require replacing the attaching nutplates on certain engine nose cowls with washers and self-locking nuts. That action was prompted by reports indicating that nose cowls separated (or nearly separated) from the engines of certain airplanes following failure of the engine fan blade and subsequent vibration of the engine, which caused loosening of the attach bolts on the nose cowl of the engine. The actions required by that AD are intended to prevent the attach bolts from becoming loose, which could result in subsequent separation of the nose cowl from the engine.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has transferred the supplemental type certificate data from the Seattle Aircraft Certification Office (ACO) to the Los Angeles ACO. Therefore, the FAA

has determined it is necessary to issue this AD to require that all future alternative methods of compliance and adjustments of compliance time be approved by the Manager of the Los Angeles ACO.

Explanation of Requirements of Rule

Since unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD revises AD 95-19-08 to continue to require replacing the attaching nutplates on certain engine nose cowls with washers and self-locking nuts. This AD changes the responsible office for approval of an alternative method of compliance.

Determination of Rule's Effective Date

Since this AD is a minor and merely technical amendment in which the public is not particularly interested, and does not change the existing requirements, it is found that notice and opportunity for prior public comment hereon are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that is a minor and merely technical amendment and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic,

environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000-NM-249-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that notice and comment hereon are unnecessary because this is a minor and merely technical amendment in which the public is not particularly interested.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-9370 (60 FR 48630, September 20, 1995), and by adding a new airworthiness directive (AD), amendment 39-11839, to read as follows:

95-19-08 R1 Boeing: Amendment 39-11839. Docket 2000-NM-249-AD. Revises AD 95-19-08, Amendment 39-9370.

Applicability: Model 727-100 and -200 series airplanes equipped with an engine

nose cowl for engine numbers 1 and 3, installed in accordance with Supplemental Type Certificate (STC) SA4363NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the attach bolts on the nose cowl of the engine from becoming loose, and subsequent separation of the nose cowl from the engine, accomplish the following:

Replacement

(a) Within 12 months after October 20, 1995 (the effective date of AD 95-19-08, amendment 39-9370), replace the attaching nutplates of the No. 1 and No. 3 engine nose cowls with washers and self-locking nuts in accordance with VALSAN B727-RE Service Bulletin 71-006, Revision 1, dated March 3, 1995.

Spares

(b) As of October 20, 1995, no person shall install a nose cowl having VALSAN part number 259-0002-501 or 259-0002-503 on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with VALSAN B727-RE Service Bulletin 71-006, Revision 1, dated March 3, 1995. This incorporation by reference was approved previously by the Director of the Federal Register as of October 20, 1995 (60

FR 48630, September 20, 1995). Copies may be obtained from VALSAN Partnership Ltd., Aviation Products Management, Product Support Office, 39450 Third Street East, suite 121, Palmdale, California 93550. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on August 16, 2000.

Issued in Renton, Washington, on July 25, 2000.

Donald L. Riggan,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-19262 Filed 7-31-00; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-316-AD; Amendment 39-11754; AD 2000-11-06]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to all Boeing Model 767 series airplanes. That AD currently requires repetitive inspections to detect discrepancies of the wiring and surrounding Teflon sleeves of the fuel tank boost pumps and override/jettison pumps; replacement of the sleeves with new sleeves, for certain airplanes; and repair or replacement of the wiring and sleeves with new parts, as necessary. This document corrects the date for the relevant service information referenced in that AD. This correction is necessary to ensure that operators use the correct source of service information to accomplish the actions required by the existing AD, which are intended to ensure adequate protection from chafing for the fuel pump wire insulation.

DATES: Effective July 6, 2000.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of July 6, 2000 (65 FR 34928, June 1, 2000).

FOR FURTHER INFORMATION CONTACT: Holly Thorson, Aerospace Engineer,

Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1357; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: On May 23, 2000, the Federal Aviation Administration (FAA) issued AD 2000-11-06, amendment 39-11754 (65 FR 34928, June 1, 2000), which applies to all Boeing Model 767 series airplanes. That AD requires repetitive inspections to detect discrepancies of the wiring and surrounding Teflon sleeves of the fuel tank boost pumps and override/jettison pumps; replacement of the sleeves with new sleeves, for certain airplanes; and repair or replacement of the wiring and sleeves with new parts, as necessary.

That AD was prompted by reports of chafing of Teflon sleeves that surround and protect electrical wires inside conduits installed in the fuel tanks. The actions required by that AD are intended to ensure adequate protection to the fuel pump wire insulation. Such chafing of the wire insulation could eventually result in exposure of electrical conductor, permit arcing from the wire to the conduit, and create a potential for a fuel tank fire or explosion.

Need for the Correction

Since the issuance of that AD, the FAA has determined that the AD cites an incorrect date for the referenced service information. The actions in that AD are required to be accomplished under Boeing Service Bulletin 767-28A0053, Revision 1. The AD references that bulletin as being dated April 1, 1999. The correct date for the service bulletin is August 5, 1999. While the footer on each page of Revision 1 of the service bulletin shows a date of April 1, 1999, the first page of the bulletin, as well as the "Summary" and "Revision Transmittal Sheet," show a date of August 5, 1999. The manufacturer has informed the FAA that the correct date for the bulletin is August 5, 1999.

A correction to AD 2000-11-06 is necessary. The correction will eliminate confusion for operators and ensure that operators use the correct source of service information to accomplish the actions required by the existing AD.

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains July 6, 2000.

Since this action only clarifies the correct date for the service information referenced in the existing AD, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

2000-11-06 Boeing: Amendment 39-11754. Docket 98-NM-316-AD.

Applicability: All Model 767 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent exposure of electrical conductor, which could permit arcing from the wire to the conduit and create a potential for a fuel tank fire or explosion, accomplish the following:

Inspections

(a) Perform a detailed visual inspection to detect discrepancies—including the presence of splices, cuts, splits, holes, worn areas, and lacing ties installed on the outside of the sleeves (except at the sleeve ends)—of the Teflon sleeves surrounding the wiring of the fuel tank boost pumps and override/jettison pumps, at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD, in

accordance with Boeing Service Bulletin 767-28A0053, Revision 1, dated August 5, 1999. Repeat the inspection thereafter at intervals not to exceed 60,000 flight hours or 30,000 flight cycles, whichever occurs first.

(1) Prior to the accumulation of 50,000 total flight hours, or within 90 days after the effective date of this AD, whichever occurs later.

(2) Within 18 months after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required."

Corrective Actions

(b) If any discrepancy is detected during any inspection required by paragraph (a) of this AD: Prior to further flight, remove the Teflon sleeves and perform a detailed visual inspection to detect damage of the wiring, in accordance with paragraph D. of the Accomplishment Instructions of Boeing Service Bulletin 767-28A0053, Revision 1, dated August 5, 1999.

(1) If no damage to the wiring is detected, prior to further flight, install new Teflon sleeves in accordance with the service bulletin.

(2) If any damage to the wiring is detected, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(c) If any damage to the wiring is detected during any inspection required by paragraph (b) of this AD: Prior to further flight, perform a detailed visual inspection to determine if the wiring damage was caused by arcing, in accordance with paragraph D. of the Accomplishment Instructions of Boeing Service Bulletin 767-28A0053, Revision 1, dated August 5, 1999.

(1) If the wire damage was not caused by arcing: Prior to further flight, repair any damaged wires or replace the wires with new or serviceable wires, as applicable, and install new Teflon sleeves; in accordance with the service bulletin.

(2) If any damage caused by arcing is found: Prior to further flight, perform an inspection for signs of fuel inside the conduit or on the wires, in accordance with the service bulletin.

(i) If no sign of fuel is found, accomplish the actions specified by paragraphs (c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(i)(C), and (c)(2)(i)(D) of this AD.

(A) Prior to further flight, repair the wires or replace the wires with new or serviceable wires, as applicable, in accordance with the service bulletin.

(B) Prior to further flight, install new Teflon sleeves, in accordance with the service bulletin.

(C) Repeat the inspection for signs of fuel inside the conduit thereafter at intervals not to exceed 500 flight hours, until the requirements of paragraph (c)(2)(i)(D) of this

AD have been accomplished. If any fuel is found inside the conduit during any inspection required by this paragraph, prior to further flight, replace the conduit with a new or serviceable conduit in accordance with the service bulletin. Thereafter, repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 60,000 flight hours or 30,000 flight cycles, whichever occurs first.

(D) Within 6,000 flight hours or 18 months after the initial fuel inspection specified by paragraph (c)(2) of this AD, whichever occurs first, replace the conduit with a new or serviceable conduit, in accordance with the service bulletin. Such conduit replacement constitutes terminating action for the repetitive fuel inspections required by paragraph (c)(2)(i)(C) of this AD.

(ii) If any fuel is found in the conduit or on any wire: Prior to further flight, replace the conduit with a new or serviceable conduit, replace damaged wires with new or serviceable wires, and install new Teflon sleeves; in accordance with the service bulletin. Thereafter, repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 60,000 flight hours or 30,000 flight cycles, whichever occurs first.

Pump Retest

(d) For any wire bundle removed and reinstalled during any inspection required by this AD: Prior to further flight after such reinstallation, retest the fuel pump in accordance with paragraph G., H., I., or J., as applicable, of the Accomplishment Instructions, of Boeing Service Bulletin 767-28A0053, Revision 1, dated August 5, 1999.

Reporting Requirement

(e) Submit a report of positive inspection findings (findings of discrepancies only), along with any damaged wiring and sleeves, to the Seattle Manufacturing Inspection District Office (MIDO), 2500 East Valley Road, Suite C-2, Renton, Washington 98055-4056; fax (425) 227-1159; at the applicable time specified in paragraph (e)(1) or (e)(2) of this AD. The report must include the airplane serial number; the number of total flight hours and flight cycles on the airplane; the location of the electrical cable on the airplane; and a statement indicating, if known, whether any wire has ever been removed and inspected during maintenance, along with the date (if known) of any such inspection. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) For airplanes on which the initial inspection required by paragraph (a) of this AD is accomplished after the effective date of this AD: Submit the report within 10 days after performing the initial inspection.

(2) For airplanes on which the initial inspection required by paragraph (a) of this AD has been accomplished prior to the effective date of this AD: Submit the report for the initial inspection within 10 days after the effective date of this AD.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(h) The actions shall be done in accordance with Boeing Service Bulletin 767-28A0053, Revision 1, dated August 5, 1999. This incorporation by reference was approved previously by the Director of the Federal Register as of July 6, 2000 (65 FR 34928, June 1, 2000). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) The effective date of this amendment remains July 6, 2000.

Issued in Renton, Washington, on July 25, 2000.

Donald L. Riggan,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-19260 Filed 7-31-00; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201 and 341

[Docket No. 76N-052T]

RIN 0910-AA01

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph for OTC Antitussive Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the final monograph for over-the-counter (OTC) antitussive drug products (products that relieve cough). Use of topical/inhalant products containing camphor or menthol near a flame, in hot water, or in a microwave oven may cause the products to splatter and cause serious burns to the user. As part of its ongoing review of OTC drug products, FDA is adding warnings and directions to inform consumers about these improper uses and is amending its final regulations for OTC drug labeling requirements to add this new flammability warning for antitussive drug products containing camphor or menthol.

DATES: This rule is effective May 16, 2002. The compliance date for products with annual sales less than \$25,000 is May 16, 2003. The compliance date for all other OTC drug products is May 16, 2002.

FOR FURTHER INFORMATION CONTACT:

Elizabeth A. Ryland or Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD-560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-2222.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 12, 1987 (52 FR 30042), the agency published the final monograph for OTC antitussive drug products. The monograph included the ingredients camphor and menthol as single topical antitussives in an ointment vehicle or for steam inhalation use. Products containing camphor and menthol in combination are being considered as part of the ongoing rulemaking for OTC cough-cold combination drug products.

When the final monograph was published in 1987, the agency was not aware of safety problems occurring when products that contain camphor or menthol are added to hot water or used in a microwave oven. In the **Federal Register** of July 20, 1998 (63 FR 38762), the agency discussed new information concerning 34 fire-related events (flashing occurred) resulting from antitussive drug products containing camphor and menthol (in an ointment vehicle or an alcohol-based solution) that were placed in hot water or heated in a microwave oven. As a result, the agency proposed a flammability signal word and new warning and direction statements for these products (63 FR 38762 at 38765).

The agency proposed a flammability signal word and a warning ("Keep away

from fire or flame”) for any product containing camphor or menthol in an ointment vehicle or for steam inhalation use. The agency also proposed a number of “do not use” warnings (e.g., near an open flame and in a microwave oven) and the following statements in the directions: “See important warnings about not using near a flame, in hot water, or in a microwave oven. Improper use may cause the mixture to splatter and cause burns.”

In response to the proposal, the agency received two comments, copies of which are on public display in the Dockets Management Branch (HFA-305), 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. The agency’s responses to the comments follow.

II. The Agency’s Conclusions on the Comments

(Comment 1) One comment agreed with the proposal to require additional information to help increase appropriate use of the topical/inhalant drug products containing camphor and menthol.

(Comment 2) Two comments requested that the regulation clarify that a flammability signal word is not required on all products. The comments pointed out that the flammability signal words in 16 CFR 1500.3(b)(10) and (c)(6) state that “flammable” is any substance having a flashpoint above 20 °F and below 100 °F and that no flammability signal word is required if the flashpoint of the substance is above 150 °F. The comments added that camphor and menthol in ointment/cream products have flashpoints over 150 °F and would not need the flammability signal word or warnings, while steam inhalation products in an alcohol vehicle have a flashpoint between 20 °F and below 100 °F and would be labeled as flammable and contain the two proposed flammability warnings. One comment provided the results of flashpoint testing for its ointment, cream, and steam inhalation products (Ref. 1).

The agency has reviewed the testing results and concurs that products with a flashpoint above 150 °F would not need the flammability signal word or warnings. The agency only intended that those products that meet the criteria in 16 CFR 1500.3(b)(10) (flashpoint of 150 °F or below) be labeled with the flammability signal word and warnings. Accordingly, the agency is revising § 341.74(c)(5)(iii) (21 CFR 341.74(c)(5)(iii)) to require that the labeling contains the appropriate flammability signal word and the statement “Keep away from fire or flame” if the product meets the definition of one of the signal words

(“extremely flammable,” “flammable,” “combustible”) as described in 16 CFR 1500.3(b)(10). The agency is also amending § 201.66(c)(5)(ii)(C) (21 CFR 201.66(c)(5)(ii)(C)) to include § 341.74(c)(5)(iii) as an example where a flammability warning is found in an OTC drug monograph.

(Comment 3) Two comments requested that the warnings about not using these products in certain ways be included in the “Directions,” and not the “Warnings,” section. The comments contended that the warnings relate to appropriate use of the product and belong in the directions so consumers know how to use the product correctly. The comments argued that because space limitations on small package sizes make it very difficult to fit similar information in two places (warnings and directions), the information should be consolidated in the “Directions” section.

The agency has determined that this information is more appropriate in the “Warnings” section of the labeling. Under the new OTC drug product labeling format in § 201.66(c)(5)(vi), which was issued after the proposal in the current rulemaking, the subheading “When using this product” is used to describe activities consumers should avoid while using the product. Information about not using the product near a flame or in a microwave oven belongs under this subheading. However, because of the importance of the warning information, the agency is including a short cross-reference in the “Directions” section to the location of the information in the “Warnings” section. This approach is consistent with the “choking” warning for water-soluble gums in 21 CFR 201.319 where the information about choking appears in the “Warnings” section and a cross-reference to the warning appears in the “Directions” section.

The agency proposed a two-sentence cross-reference in the “Directions” section that was repetitive of some of the information in the “Warnings” section. The agency is removing the repetitive information in the first proposed sentence (i.e., about not using near a flame, in hot water, or in a microwave oven) and shortening the sentence to refer users to the same information in the “Warnings” section. The revised directions statement now reads: “[bullet] see important warnings under ‘When using this product’” [appears as the first statement under the heading “Directions” and is highlighted in bold type]. The agency is moving the second proposed statement about the mixture splattering and causing burns to the “Warnings” section to follow the

information about not using near a flame or in a microwave oven, because the second sentence should immediately follow that information.

(Comment 4) Two comments requested that the directions provide different instructions for ointment and steam inhalation products. One comment suggested the following wording for ointment products: “Do not expose to any heat source (including stove or microwave) or place in any container in which you are heating water. Improper use may cause the mixture to splatter and cause burns.” The comment added that steam inhalation products would also include the word “flame” after “stove” and the words “except when adding to cold water in a hot steam vaporizer” after the words “heating water.”

The second comment proposed similar but revised wording for ointment products: “Do not heat. Never expose to flame, microwave, or place in any container in which you are heating water. Improper use may cause the mixture to splatter and cause burns.” The comment added that steam inhalation products should also include the words “except when adding to cold water in a hot steam vaporizer” after the words “heating water.”

As discussed in part II, comment 3 of this document, this information about not using the products in certain ways will appear in the “Warnings” section. The agency agrees that ointment, cream, and steam inhalation products could have slightly different warnings depending on the flashpoint of the products. The data provided by one comment (Ref. 1) showed that the flashpoints of an ointment product were 158 and 165 °F, while the flashpoint of a cream product was 152 °F. As discussed in part II, comment 2 of this document, other manufacturers’ products might have a flashpoint of 150 °F or below and thus be required to have a flammability signal word and warnings. The agency agrees with deletion of the word “flame” from the warnings for ointment/cream products if they are not flammable or combustible. The agency also agrees with inclusion of the words “except when adding to cold water only in a hot steam vaporizer” for steam inhalation products. To increase the amount of information provided to consumers and to state the information in a clear and concise way, the agency is revising the warnings as follows:

- For any product containing camphor or menthol in a suitable ointment vehicle and that does not contain a flammability signal word as described in 16 CFR 1500.3(b)(10). “When using this product, do not • heat

• microwave • add to hot water or any container where heating water. May cause splattering and result in burns.” [Information highlighted in bold type.]

• *For any product containing camphor or menthol in a suitable ointment vehicle and that contains a flammability signal word as described in 16 CFR 1500.3(b)(10).* “When using this product, do not • heat • microwave • use near an open flame • add to hot water or any container where heating water. May cause splattering and result in burns.” [Information highlighted in bold type.]

• *For any product containing camphor or menthol for steam inhalation use.* “When using this product, do not • heat • microwave • use near an open flame • add to hot water or any container where heating water except when adding to cold water only in a hot steam vaporizer. May cause splattering and result in burns.” [Information highlighted in bold type.]

There are two types of products containing camphor or menthol for steam inhalation use on the market. One is formulated to be added directly to cold water inside a hot steam vaporizer before the water is heated, and the other is formulated to be placed into the medication chamber of the vaporizer. The agency is modifying the directions in § 341.74(d)(2)(iv) and (d)(2)(v) for products containing camphor or menthol for steam inhalation use to include appropriate directions for both types of these products, as follows:

• *For products formulated to be added directly to cold water inside a hot steam vaporizer.* • use 1 tablespoonful of solution for each quart of water or 1\1/2\ teaspoonsful of solution for each pint of water • add solution directly to cold water only in a hot steam vaporizer • follow manufacturer’s directions for using vaporizer.

• *For products formulated to be placed in the medication chamber of a hot steam vaporizer.* • place water in the vaporizer and follow manufacturer’s directions for using vaporizer • place solution in the medication chamber only.

(Comment 5) One comment stated that the proposed warning about not using an ointment product in a hot steam vaporizer is inappropriate (because these products are not used in that manner) and will lead to consumer confusion.

The agency notes that 1 of the 21 fire-related events discussed in the proposal (63 FR 38762) involved an ointment product that was added to hot water in a vaporizer. The agency believes that it is important to inform consumers about this potential problem. The portion of

the warning about not adding the product to “hot water” covers both hot water in a container on the stove and hot water in a vaporizer; thus, this information should adequately inform consumers and should not cause confusion.

III. Reference

The following reference is on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Comment No. C200, Docket No. 76N-052T, Dockets Management Branch.

IV. The Agency’s Final Conclusions

The agency concludes that the case reports raise safety concerns that could be alleviated by providing consumers with additional warnings and directions for topical/inhalant OTC antitussive drug products that contain camphor or menthol. Products that meet the definition of one of the signal words (“extremely flammable,” “flammable,” “combustible”) in 16 CFR 1500.3(b)(10) must state the signal word and “Keep away from fire or flame” in their labeling. Consumers need to be informed via warnings not to heat or microwave these products, not to add them to hot water, not to put them in any container where water is being heated (except for adding a steam inhalation product to cold water only in a hot steam vaporizer), and not to use near an open flame (if the product bears a flammability signal word). The agency has included warnings and directions with minor differences to fit the variety of products that might exist and a short cross-reference to the warnings information in the directions section. The agency has revised proposed warnings and directions in this final rule to state them in the new OTC drug labeling format required by § 201.66.

V. Analysis of Impacts

FDA has examined the impacts of this final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an

agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million (adjusted annually for inflation).

The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The purpose of this final rule is to revise and improve the labeling (add additional warning and direction statements) for safer use of topical/inhalant products that contain camphor, menthol, or both ingredients. This revised labeling addresses the flammability of these products and alerts consumers not to heat or microwave the products, nor to use near an open flame, add to hot water, or put in any container in which water is being heated (with an exception for adding a steam inhalation product to cold water only in a hot steam vaporizer). Potential benefits include a reduction in the number of flash fires and serious burns that may occur if consumers should misuse these products.

This final rule will require relabeling of topical/inhalant products that contain camphor, menthol, or both ingredients. The agency’s Drug Listing System identifies about 30 manufacturers and 80 marketers of over 100 stockkeeping units (SKU’s) (individual products, packages, and sizes) of topical/inhalant antitussive drug products containing camphor, menthol, or both ingredients. There may be a few additional marketers and products that are not identified in the sources FDA reviewed.

The agency indicated in the proposal that relabeling costs of the type required by this final rule generally average about \$2,000 to \$3,000 per SKU. In determining this cost, the agency did not believe that manufacturers would need to increase the package size to add the additional labeling information. Almost all of these products are marketed in an outer carton, which should have adequate space for the additional information. Assuming that there are about 110 affected OTC SKU’s in the marketplace, FDA estimated that the rule would impose total one-time compliance costs on industry for

relabeling of about \$220,000 to \$330,000. The agency did not receive any comments on these estimates.

The agency believes the actual cost could be lower for several reasons. First, most of the label changes will be made by private label small manufacturers that tend to use simpler and less expensive labeling. However, the final rule will not require any new reporting and recordkeeping activities. Therefore, no additional professional skills are needed. Second, the agency has made the compliance dates for this final rule the same as the dates for these monographed products to be in compliance with the new standardized format and standardized content requirements for the labeling of OTC drug products (§ 201.66), which are now May 16, 2002 (and May 16, 2003, for products with annual sales less than \$25,000). Manufacturers will not incur any expenses determining how to state the product's labeling. All manufacturers should have ample time to use up existing labeling stocks and the relabeling costs would be mitigated. Thus, all required labeling changes can be made at the same time, thereby reducing the labeling cost of this final rule.

The agency considered but rejected several labeling alternatives: (1) A shorter or longer implementation period, and (2) an exemption from coverage for small entities. While the agency believes that consumers would benefit from having this new labeling in place as soon as possible, the agency also acknowledges that coordination of this labeling change with implementation of the new OTC "Drug Facts" labeling may significantly reduce the costs of this final rule. Both a shorter and a longer time period for this rule may cost more if firms would have to undertake two successive labeling revisions. In addition, a longer time period would unnecessarily delay the benefit of the new labeling to consumers who self-medicate with these products. The agency rejected an exemption for small entities because the new labeling information is also needed by consumers who purchase products marketed by those entities.

The agency does not believe that this final rule will have a significant economic impact on small entities, using the U.S. Small Business Administration designations for this industry (750 employees). The agency believes that any other unidentified manufacturer of these products is also a small entity. From information available to the agency, it appears that only one small entity manufactures more than three SKU's of these products. Based on

the limited number of SKU's each manufacturer has to relabel, the cost for each manufacturer except one should be minimal.

Under the Unfunded Mandates Reform Act, FDA is not required to prepare a statement of costs and benefits for this final rule because this rule is not expected to result in any 1-year expenditure that would exceed \$100 million adjusted for inflation.

This analysis shows that the agency has considered the burden to small entities. Thus, this economic analysis, together with other relevant sections of this document, serves as the agency's final regulatory flexibility analysis, as required under the Regulatory Flexibility Act.

VI. Paperwork Reduction Act of 1995

FDA concludes that the labeling requirements in this final rule are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling requirements are a "public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

VII. Environmental Impact

The agency has determined under 21 CFR 25.31(a) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 341

Labeling, Over-the-counter drugs. Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 201 and 341 are amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR part 201 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 358, 360, 360b, 360gg–360ss, 371, 374, 379e; 42 U.S.C. 216, 241, 262, 264.

2. Section 201.66 is amended by revising paragraph (c)(5)(ii)(C) to read as follows:

§ 201.66 Format and content requirements for over-the-counter (OTC) drug product labeling.

* * * * *

(c) * * *

(5) * * *

(ii) * * *

(C) Flammability warning, with appropriate flammability signal word(s) (e.g., §§ 341.74(c)(5)(iii), 358.150(c), and 358.550(c) of this chapter). This warning shall follow a subheading containing the appropriate flammability signal word(s) described in an applicable OTC drug monograph or approved drug application.

* * * * *

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTI-ASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

3. The authority citation for 21 CFR part 341 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

4. Section 341.74 is amended by adding new paragraphs (c)(5)(iii) through (c)(5)(vii), and by revising paragraphs (d)(2)(i), (d)(2)(ii), (d)(2)(iv), and (d)(2)(v) to read as follows:

§ 341.74 Labeling of antitussive drug products.

* * * * *

(c) * * *

(5) * * *

(iii) *For any product containing camphor or menthol in a suitable ointment vehicle or for steam inhalation use and meets the definition of one of the signal words ("extremely flammable," "flammable," "combustible") as described in 16 CFR 1500.3(b)(10).* The labeling contains the appropriate flammability signal word(s) followed by a colon and the statement "Keep away from fire or flame."

(iv) *For any product containing camphor or menthol in a suitable ointment vehicle and that does not contain a flammability signal word as described in 16 CFR 1500.3(b)(10).* "When using this product, do not [bullet] ¹ heat [bullet] microwave [bullet] add to hot water or any container where heating water. May cause splattering and result in burns." [Information highlighted in bold type.]

(v) *For any product containing camphor or menthol in a suitable ointment vehicle and that contains a flammability signal word as described in 16 CFR 1500.3(b)(10).* "When using this

¹ For a definition of the term "bullet," see § 201.66(b)(4) of this chapter.

product, do not [bullet] heat [bullet] microwave [bullet] use near an open flame [bullet] add to hot water or any container where heating water. May cause splattering and result in burns.” [Information highlighted in bold type.]

(vi) For any product containing camphor or menthol for steam inhalation use. “When using this product, do not [bullet] heat [bullet] microwave [bullet] use near an open flame [bullet] add to hot water or any container where heating water except when adding to cold water only in a hot steam vaporizer. May cause splattering and result in burns.” [Information highlighted in bold type.]

(vii) For any product formulated in a volatile vehicle. The labeling contains the following statement under the heading “Other information”: “Close container tightly and store at room temperature away from heat.”

(d) * * *

(2) * * *

(i) For products containing camphor identified in § 341.14(b)(1) in a suitable ointment vehicle. The product contains 4.7 to 5.3 percent camphor. “[bullet] see important warnings under ‘When using this product’ ” [appears as the first statement under the heading “Directions” and is highlighted in bold type] [bullet] adults and children 2 years and older: [bullet] rub on the throat and chest in a thick layer [bullet] cover with a warm, dry cloth if desired [bullet] clothing should be loose about throat and chest to help vapors reach the nose and mouth [bullet] use up to three times daily or as directed by a doctor [bullet] children under 2 years of age: Ask a doctor.

(ii) For products containing menthol identified in § 341.14(b)(2) in a suitable ointment vehicle. The product contains 2.6 to 2.8 percent menthol. “[bullet] see important warnings under ‘When using this product’ ” [appears as the first statement under the heading “Directions” and is highlighted in bold type] [bullet] adults and children 2 years and older: [bullet] rub on the throat and chest in a thick layer [bullet] cover with a warm, dry cloth if desired [bullet] clothing should be loose about throat and chest to help vapors reach the nose and mouth [bullet] use up to three times daily or as directed by a doctor [bullet] children under 2 years of age: Ask a doctor.

* * * * *

(iv) For products containing camphor identified in § 341.14(b)(1) for steam inhalation use. The product contains 6.2 percent camphor. “[bullet] see important warnings under ‘When using this product’ ” [appears as the first

statement under the heading “Directions” and is highlighted in bold type] [bullet] adults and children 2 years and older: (select one of the following, as appropriate: For products formulated to be added directly to cold water inside a hot steam vaporizer. [bullet] use 1 tablespoonful of solution for each quart of water or 1½ teaspoonsful of solution for each pint of water [bullet] add solution directly to cold water only in a hot steam vaporizer [bullet] follow manufacturer’s directions for using vaporizer or For products formulated to be placed in the medication chamber of a hot steam vaporizer. [bullet] place water in the vaporizer and follow manufacturer’s directions for using vaporizer [bullet] place solution in the medication chamber only) [bullet] breathe in the medicated vapors [bullet] use up to three times daily or as directed by a doctor [bullet] children under 2 years of age: Ask a doctor.

(v) For products containing menthol identified in § 341.14(b)(2) for steam inhalation use. The product contains 3.2 percent menthol. “[bullet] see important warnings under ‘When using this product’ ” [appears as the first statement under the heading “Directions” and is highlighted in bold type] [bullet] adults and children 2 years and older: (select one of the following, as appropriate: For products formulated to be added directly to cold water inside a hot steam vaporizer. [bullet] use 1 tablespoonful of solution for each quart of water or 1½/2 teaspoonsful of solution for each pint of water [bullet] add solution directly to cold water only in a hot steam vaporizer [bullet] follow manufacturer’s directions for using vaporizer or For products formulated to be placed in the medication chamber of a hot steam vaporizer. [bullet] place water in the vaporizer and follow manufacturer’s directions for using vaporizer [bullet] place solution in the medication chamber only) [bullet] breathe in the medicated vapors [bullet] use up to three times daily or as directed by a doctor [bullet] children under 2 years of age: Ask a doctor.

* * * * *

Dated: July 21, 2000.
Margaret M. Dotzel,
Associate Commissioner for Policy.
[FR Doc. 00-19302 Filed 7-31-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-99-067]

RIN 2115-AE47

Drawbridge Operation Regulations: Gowanus Canal, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating rules for four New York City bridges across the Gowanus Canal—the Ninth Street Bridge, at mile 1.4; the Third Street Bridge, at mile 1.8; the Carroll Street Bridge, at mile 2.0; and the Union Street Bridge, at mile 2.1—all in Brooklyn, New York. The bridge owner asked the Coast Guard to change the regulations to require a two-hour advance notice for openings. This action will relieve the owner of the bridge from the requirement to crew these bridges at all times by using a roving crew of drawtenders and still meet the reasonable needs of navigation.

DATES: This rule is effective August 31, 2000.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-99-067) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 27, 2000, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Gowanus Canal, New York, in the Federal Register (65 FR 24664). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

Ninth Street Bridge

The Ninth Street Bridge, at mile 1.4, across the Gowanus Canal at Brooklyn, has a vertical clearance of 5 feet at mean high water and 9 feet at mean low water. The existing operating regulations for the Ninth Street Bridge require the bridge to open on signal at all times.

Third Street Bridge

The Third Street Bridge, at mile 1.8, across the Gowanus Canal at Brooklyn, has a vertical clearance of 10 feet at mean high water and 14 feet at mean low water. The existing operating regulations in 33 CFR 117.787, require the draw to open on signal at all times; except that, from May 1 through September 30, the draw shall open on signal after a six-hour advance notice is given to the New York City Highway Department's Radio (Hotline) Room.

Carroll Street Bridge

The Carroll Street Bridge, at mile 2.0, has a vertical clearance of 3 feet at MHW and 7 feet at MLW. The existing regulations require the draw to open on signal at all times; except that, from May 1 through September 30, the draw shall open after a six-hour advance notice is given to the New York City Highway Department's Radio (Hotline) Room.

Union Street Bridge

The Union Street Bridge, at mile 2.1, has a vertical clearance of 9 feet at

MHW and 13 feet at MLW. The existing regulations require the draw to open on signal at all times; except that, from May 1 through September 30, the draw shall open after a six-hour advance notice is given to the New York City Highway Department's Radio (Hotline) Room.

The owner of all four bridges, the New York City Department of Transportation (NYCDOT), submitted bridge opening log data to the Coast Guard for review.

	1991	1992	1993	1994	1995	1996	1997	1998	1999
Ninth	864	984	927	836	0	0	0	0	423
Third	410	549	663	732	432	256	149	107	244
Carroll	517	627	669	704	432	245	142	114	228
Union	502	547	657	713	432	236	144	104	245

The bridge owner plans to operate these bridges with a roving crew of drawtenders. A review of the monthly breakdown of the opening data did not identify any months that had a significantly higher number of openings that would make the roving crew concept unworkable. The waterway users are all commercial vessels which operate year round. They presently provide a six-hour advance notice May 1 through September 30 at all the above bridges except the Ninth Street Bridge, which is required to open on signal.

The bridge owner has requested that all four bridges open after a two-hour advance notice is given year round. This advance notice requirement will allow the bridge owner to use a roving crew of drawtenders to operate these bridges. The Coast Guard believes this rule is reasonable based upon the fact that three of the bridges presently open after a six-hour notice May 1 through September 30, which is greater than the two-hour notice during those five months.

The Coast Guard believes that the two-hour advance notice October 1 through April 30 is reasonable because the bridges will still open on signal provided the two-hour notice is given. The commercial vessel transits on Gowanus Canal are scheduled in advance. Providing a two-hour notice for bridge openings for the additional seven months of the year, October 1 through April 30, should not prevent vessels from transiting the waterway in a timely manner.

The reduction from six-hours advance notice to two-hours advance notice during the remaining five months of the year, May 1 through September 30, should make vessel transits easier to schedule during that time period. This

rule is expected to relieve the bridge owner of the burden of crewing each bridge continually, establish a consistent bridge operating schedule for the bridges listed in this rulemaking, and still meet the reasonable needs of navigation.

Discussion of Proposal

The Coast Guard is revising the operating regulations for the Gowanus Canal at 33 CFR 117.787 as follows:

Ninth Street Bridge

Add operating regulations for the Ninth Street Bridge, mile 1.4, Across the Gowanus Canal to require that the draw shall open on signal, if at least a two-hour advance notice is given.

Third Street Bridge

Revise the operating regulations for the Third Street Bridge, mile 1.8, across the Gowanus Canal to require that the draw shall open on signal, if at least a two-hour advance notice is given.

Carroll Street Bridge

Revise the operating regulations for the Carroll Street, mile 2.0, across the Gowanus Canal to require that the draw shall open on signal, if at least a two-hour advance notice is given.

Union Street Bridge

Revise the operating regulations for the Union Street, mile 2.1, across the Gowanus Canal to require that the draw shall open on signal, if at least a two-hour advance notice is given.

Notice for bridge openings shall be given to the NYCDOT Hotline or NYCDOT Bridge Operation Office.

The bridge owner plans to use two crews of drawtenders to operate the Gowanus Canal bridges. The use of two

crews is expected to provide bridge openings in a timely manner. The Hamilton Avenue Bridge, mile 1.2, also across Gowanus Canal was not included in the roving drawtender plan because the frequency of bridge openings were considerably higher than the other bridges on this waterway.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that three of the bridges presently open after a six-hour notice May 1 through September 30, which is greater than the proposed two-hour notice during those five months.

The Coast Guard believes that the two-hour advance notice October 1 through April 30 is reasonable because the bridges will still open on signal provided the two-hour notice is given. The commercial vessel movements on Gowanus Canal are scheduled in advance by the commercial operators. Providing two-hours notice for bridge openings for the additional seven months of the year, October 1 through April 30, should not prevent vessels from still transiting the waterway in a timely manner.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) we considered whether this rule would have a

significant economic impact on a substantial number of small entities. "Small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that three of the bridges presently open after a six-hour notice May 1 through September 30, which is greater than the proposed two-hour notice during those five months.

The Coast Guard believes that the two-hour advance notice October 1 through April 30 is reasonable because the bridges will still open on signal provided the two-hour notice is given. The commercial vessel transits on Gowanus Canal are scheduled in advance by the commercial operators. Providing two-hours notice for bridge openings for the additional seven months of the year, October 1 through April 30, when the bridge formerly opened on signal, should not prevent vessels from still transiting the waterway in a timely manner.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.787 is revised to read as follows:

§ 117.787 Gowanus Canal

The draws of the Ninth Street Bridge, mile 1.4, the Third Street Bridge, mile 1.8, the Carroll Street Bridge, mile 2.0, and the Union Street Bridge, mile 2.1, at Brooklyn, shall open on signal, if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT), Radio Hotline, or the NYCDOT Bridge Operations Office.

Dated: July 19, 2000.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 00-19396 Filed 7-31-00; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-99-069]

RIN 2115-AE47

Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills and their tributaries, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations for six New York City bridges: The Pulaski Bridge, at mile 0.6, across Newtown Creek between Brooklyn and Queens; the Greenpoint Avenue Bridge, at mile 1.3, across the Newtown Creek between Brooklyn and Queens; the Grand Street/Avenue Bridge, at mile 3.1, across Newtown Creek (East Branch) between Brooklyn and Queens; the Metropolitan Avenue Bridge, at mile 3.4, across English Kills at Brooklyn; the Borden Avenue Bridge, at mile 1.2, across Dutch Kills at Queens; and the Hunters Point Avenue Bridge, at mile 1.4, across Dutch Kills at Queens all in New York.

The bridge owner asked the Coast Guard to change the regulations to require a two-hour advance notice for openings. It is expected to relieve the bridge owner from the requirement to crew the bridges at all times by using multiple crews of drawtenders and still meet the reasonable needs of navigation.

DATES: This rule is effective August 31, 2000.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-99-069) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 24, 2000, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Newtown Creek, Dutch Kills, English Kills and their tributaries, New York, in the **Federal Register** (65 FR 21683). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

Pulaski Bridge

The Pulaski Bridge, at mile 0.6, across Newtown Creek between Brooklyn and Queens has a vertical clearance of 39 feet at mean high water and 43 feet at mean low water. The existing regulations require the draw to open on signal at all times.

Greenpoint Bridge

The Greenpoint Avenue Bridge, at mile 1.3, across the Newtown Creek between Brooklyn and Queens has a vertical clearance of 26 feet at mean high water and 31 feet at mean low water. The existing regulations require the draw to open on signal at all times.

Grand Street/Avenue Bridge

The Grand Street/Avenue Bridge, at mile 3.1 across the Newtown Creek (East Branch) between Brooklyn and Queens has a vertical clearance of 8 feet above mean high water and 12 feet at mean low water. The existing operating rules

for the Grand Street/Avenue Bridge, listed at 33 CFR 117.801(e), require the bridge to open on signal unless the drawtender is at the Borden Avenue, Hunters Point Avenue or Roosevelt Island Bridges. In this event a notice to the New York City Department of Transportation (NYCDOT) Radio Hotline, or NYCDOT Bridge Operations Office shall be given, resulting in up to a one-hour delay.

Metropolitan Avenue Bridge

The Metropolitan Avenue Bridge, at mile 3.4, across the English Kills at Brooklyn has a vertical clearance of 10 feet above mean high water and 15 feet above mean low water. The existing operating regulations require the draw to open on signal at all times.

Borden Avenue Bridge

The Borden Avenue Bridge, at mile 1.3, across the Dutch Kills has a vertical clearance of 4 feet at mean high water and 9 feet at mean low water. The existing regulations in 33 CFR 117.801(c) require the draw to open on signal if at least a one-hour advance notice is given to the drawtender at the Grand Street/Avenue Bridge, the New York City Department of Transportation Radio Hotline or NYCDOT Bridge Operations Office. In the event the drawtender is at the Roosevelt Island Bridge or the Hunters Point Avenue Bridge, up to an additional half-hour delay may occur.

Hunters Point Avenue Bridge

The Hunters Point Avenue Bridge, at mile 1.4, over the Dutch Kills has vertical clearances of 8 feet at mean high water and 13 feet at mean low water. The existing regulations for the Hunters Point Avenue Bridge in 33 CFR 117.801(d) require the draw to open on signal if at least a one-hour advance notice is given to the drawtender at the Grand Street/Avenue Bridge, the NYCDOT Radio Hotline, or NYCDOT Bridge Operations Office. In the event the drawtender is at the Roosevelt Island Bridge or the Borden Avenue Bridge, up to an additional half-hour delay may occur.

The bridge owner, the New York City Department of Transportation (NYCDOT), submitted bridge opening log data to the Coast Guard for review. The bridge owner plans to operate these bridges with multiple crews of drawtenders. The two-hour advance notice should allow sufficient time for the crews to operate these bridges due to the close proximity of the bridges to each other. Recent yearly openings have been relatively low which will allow the bridge owner to utilize the roving crew concept and still meet the needs of navigation.

The total number of bridge openings at the above bridges from 1991 to 1999 are as follows:

	1991	1992	1993	1994	1995	1996	1997	1998	1999
Pulaski	584	426	224	239	206	195	291	518	550
Greenpt	1014	880	587	549	498	557	626	920	1016
Grand	419	549	224	254	239	189	37	86	91
Borden	282	107	141	0	0	105	15	37	61
Hunters	264	106	141	0	0	113	15	42	77
Metro	301	356	225	310	272	407	432	588	688

The monthly distribution of openings for the above bridges were equally balanced without any specific months when opening requests were significantly greater.

Discussion of Proposal

This final rule should relieve the bridge owner the burden of crewing each bridge continually, and still meet the reasonable needs of navigation. A two-hour advance notice requirement for bridge openings will enable the bridge owner to utilize multiple crews of drawtenders to open these bridges for vessel traffic. The Coast Guard believes the roving drawtender concept requiring a two-hour advance notice is reasonable and should meet the needs of navigation based upon the low number of yearly

openings at the bridges, the close proximity of the bridges, and the scheduling of commercial vessel transits. The bridges will still open on signal at all times provided that the advance notice is given. This rule is expected to relieve the bridge owner of the burden of crewing each bridge continually and still meet the reasonable needs of navigation.

The Coast Guard is changing the operating regulations for the Grand Street/Avenue Bridge, Borden Avenue Bridge, Hunters Point Bridge, Metropolitan Bridge, Pulaski Bridge and the Greenpoint Bridge, to require a two-hour advance notice for openings at all times.

Paragraph (a)(1) of 33 CFR 117.801 for public and state vessels used for public

safety, will be removed because it is now listed at 33 CFR 117.31 under the general operating regulations for bridges.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridges will open for marine traffic but

will require mariners to provide a two-hour notice.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. “Small entities” comprises small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the bridges will still open on signal after a two-hour notice is given.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government’s having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health

Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.801 is revised to read as follows:

§ 117.801 Newtown Creek, Dutch Kills, English Kills and their tributaries.

(a) The following requirements apply to all bridges across Newtown Creek, Dutch Kills, English Kills, and their tributaries:

(1) The owners of all bridges across Newtown Creek, Dutch Kills, English Kills and their tributaries listed under this section, shall provide and keep in good legible condition two clearance gauges with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(2) Trains and locomotives shall be controlled so that any delay in opening the draw shall not exceed five minutes. If a train moving toward the bridge has crossed the home signal for the bridge before the request to open the bridge is given, that train may continue across the bridge, but must clear the interlock before stopping.

(b) The draws of the Long Island Railroad bridges, at mile 1.1, across Dutch Kills at Queens, shall open on

signal if at least six-hours advance notice is given to the Long Island Railroad Movement Bureau, except as provided in paragraph (a)(2) of this section.

(c) The draw of the Borden Avenue Bridge, mile 1.2, across Dutch Kills at Queens, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or NYCDOT Bridge Operations Office.

(d) The draw of the Hunters Point Avenue Bridge, mile 1.4, across Dutch Kills at Queens, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or the NYCDOT Bridge Operations Office.

(e) The draw of the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or the NYCDOT Bridge Operations Office.

(f) The draw of the Grand Street/ Avenue Bridge, mile 3.1, across Newtown Creek (East Branch) between Brooklyn and Queens, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or the NYCDOT Bridge Operations Office.

(g) The draws of the Pulaski Bridge, mile 0.6, and the Greenpoint Avenue Bridge, mile 1.3, both across the Newtown Creek between Brooklyn and Queens, shall open on signal if at least a two-hour advance notice given to the New York City Department of Transportation (NYCDOT) Radio Hotline or NYCDOT Bridge Operations Office.

Dated: July 19, 2000.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 00–19395 Filed 7–31–00; 8:45 am]

BILLING CODE 4910–15–U

LIBRARY OF CONGRESS**Copyright Office****37 CFR Part 201**

[Docket No. RM 97-5B]

Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; Corrections Pertaining to Notices of Intent To Enforce Restored Copyrights**AGENCY:** Copyright Office, Library of Congress.**ACTION:** Correction of errors made pertaining to the filing of Notices of Intent to Enforce Restored Copyrights.**SUMMARY:** This notice gives public notice that the Copyright Office is correcting certain errors in the filing and recordation of notices of intent to enforce restored copyrights under the Uruguay Round Agreement Act and issuing a policy decision permitting administrative correction of certain errors.**EFFECTIVE DATE:** August 1, 2000.**FOR FURTHER INFORMATION CONTACT:** Charlotte Douglass, Principal Legal Advisor to the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.**SUPPLEMENTARY INFORMATION:** In 1997, the Copyright Office adopted an interim regulation which permitted correction of errors in the filing of Notices of Intent to Enforce (NIEs) restored copyrights under certain conditions, pursuant to the Uruguay Round Agreements Act. 62 FR 55736 (1997). In accordance with that regulation, a Correction Notice has been filed to correct certain information appearing on the NIE for the first work listed below, originally recorded effective August 22, 1997. The new information has been cataloged in Copyright Office records.

In a separate case, the Office has administratively amended the record for a Group NIE to reflect 45 additional titles not originally included. The effective date will be that of the original Group NIE, April 17, 1998. The Office is making this amendment to reflect a policy determination regarding the regulation permitting a single Group NIE to cover multiple works at a discounted rate where "all of the works are by the same author." 37 CFR 201.33 (1999). Previously the Copyright Office neither indexed nor listed titles from a Group NIE that did not have complete identity of authorship with other titles. For example, if a Group NIE listed titles

1and 2 by Author A and title 3 by Coauthors A and B, the Office required an additional NIE to be filed before publishing or indexing the nonconforming title.

In response to an inquiry and reexamination of the matter, the Office has since determined that the regulation might reasonably have been interpreted to permit group filing where the works had at least one common author. The Office has, therefore, decided that when it becomes aware that it has refused to list titles from Group NIEs because the listed works did not contain total unity of authorship but had one or more common authors, the Copyright Office will amend the original NIE record to reflect the previously omitted titles and publish those titles in the **Federal Register** on the next scheduled four-month publication date. If any corrections are received, the next projected publication date is December 1, 2000.**List of Corrected Notices of Intent To Enforce***Correction NIE*Republic Entertainment Inc.
Mimi*Administrative NIE Correction*Sociedad Argentina de Autores y
Compositores de Musica
Amargura
Amores de estudiante
Apure delantero buey
Arrabal amargo
Ave sin rumbo
Brisas
Criollita de mis amores
Cuando tu no estas
Caminito soleado
Campanitas
Criollita deci que si
Cuesta abajo
Desden
El dia que me quieras
En los campos en flor
En vano, en vano
Estudiante
Golondrinas
Guitarra, guitarra mia
Hay una virgen
Lejana tierra mia
Mananita de sol
Me da pena confesarlo
Melodia de arrabal
Mi Buenos Aires querido
Mi caballo bayo
Mi moro
Los ojos de mi moza
Olvido
El pangare
Pobre gallo bataraz
Pobre mi negra
Por una cabezaRecuerdo malevo
Rubias de New York
Silencio
Soledad
Sus ojos se cerraron
Tu y yo
Un bailongo
Vals de las guitarras
Viejos tiempos
Volver
Volvio una noche
Yo te adoro

Dated: July 25, 2000.

Marilyn J. Kretsinger,
Assistant General Counsel.

[FR Doc. 00-19098 Filed 7-31-00; 8:45 am]

BILLING CODE 1410-30-P**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA 105-0242; FRL-6733-6]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District and the Kern County Air Pollution Control District**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.**SUMMARY:** EPA is finalizing approval of revisions to the South Coast Air Quality Management District and the Kern County Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on October 18, 1999, and February 4, 2000, and concern oxides of nitrogen (NO_x) emissions from stationary gas turbines, and hot mix asphalt paving plants, respectively. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).**EFFECTIVE DATE:** This rule is effective on August 31, 2000.**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:Environmental Protection Agency, Region IX,
75 Hawthorne Street, San Francisco, CA
94105-3901.Environmental Protection Agency, Air
Docket (6102), Ariel Rios Building, 1200
Pennsylvania Avenue, NW., Washington
DC 20460.California Air Resources Board, Stationary
Source Division, Rule Evaluation Section,
2020 "L" Street, Sacramento, CA 95812.

Kern County Air Pollution Control District,
2700 "M" Street, Suite 302, Bakersfield,
CA 93301, or
South Coast Air Quality Management
District, 21865 E. Copley Drive, Diamond
Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1160.
SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

I. Proposed Action

On October 18, 1999 (64 FR 56181), and February 4, 2000 (65 FR 5465), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1134	Emissions of Oxides of Nitrogen from Stationary Gas Turbines	08/08/97	03/10/98
KCAPCD	425.1	Hot Mix Asphalt Paving Plants (Oxides of Nitrogen)	10/13/94	10/19/94

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The rules are not subject to Executive Order 13045 because they do not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rules do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to the rules.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include

regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

The rules will 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, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order does not apply to the rules.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

The final rules will not have a significant impact on a substantial

number of small entities because SIP actions under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP action does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing

programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The rules are not "major" rules as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 2, 2000. Filing a petition for reconsideration by the Administrator of the final rules does not affect the finality of the rules for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rules or action. 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 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 7, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(202)(i)(B)(2) and (c)(254)(i)(D)(4) to read as follows:

§ 52.220 Identification of plan.

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* * * * *
(c) * * *
(202) * * *
(i) * * *
(B) * * *
(2) Rule 425.1 adopted on October 13,
1994.
* * * * *
(254) * * *
(i) * * *
(D) * * *
(4) Rule 1134 adopted on August 8,
1997.
* * * * *
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[FR Doc. 00-19117 Filed 7-31-00; 8:45 am]

BILLING CODE 6560-50-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1807 and 1819

Contract Bundling

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to provide guidance on internal NASA procedures for justifying contract bundling.

EFFECTIVE DATE: August 1, 2000.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, NASA, Office of Procurement, Contract Management Division (Code HK), (202) 358-0478.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Acquisition Circular 97-15 included an interim rule addressing contract bundling that overlaps existing coverage at NFS 1819.202-170 on contract consolidations. To conform the NFS to the FAR, NASA is eliminating its separate coverage on consolidations. Instead, NASA is supplementing FAR 7.107, Additional requirements for acquisitions involving bundling of contract requirements, to establish the following internal administrative procedures: (1) the justification and documentation mandated by the FAR for "substantial bundling" must be performed for proposed NASA bundlings of \$5 million or more; (2) the measurable benefit analysis, justification, and the bundling

documentation for each acquisition of \$5 million or more must be sent to NASA Headquarters for review; (3) the analysis, justification, and documentation requirements apply to an order from a Federal Supply Schedule contract, Governmentwide acquisition contract, or other indefinite-delivery contract if the requirements consolidated under the order meet the definition of "bundling" at FAR 2.101; and (4) proposed acquisitions identified via the agency's Master Buy Plan process must indicate if they are a bundled acquisition.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. Law 98-577 and publication for comments is not required. However, NASA will consider comments from small entities concerning the affected NFS subparts in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose information collection

requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1807 and 1819

Government Procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1807 and 1819 are amended as follows:

1. The authority citation for 48 CFR Parts 1807 and 1819 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1807—ACQUISITION PLANNING

2. Add sections 1807.107 and 1807.107-70 to read as follows:

1807.107 Additional requirements for acquisitions involving bundling of contract requirements. (NASA supplements paragraphs (c) and (e).)

(c) Requests for approval of proposed bundlings that do not meet the thresholds in FAR 7.107(b) must be sent

to the Headquarters Office of Procurement (Code HS).

(e) The substantial bundling documentation requirement applies to each proposed NASA bundling expected to exceed \$5 million or more. The contracting officer must forward the documentation along with the measurable benefits analysis required by FAR 7.107(b) to the Headquarters Office of Procurement (Code HS) in sufficient time to allow a minimum of 10 days for review.

1807.107-70 Orders against Federal Supply Schedule contracts, Governmentwide acquisition contracts (GWACs), or other existing indefinite-delivery contracts.

The FAR and NFS requirements for justification, review, and approval of bundling of contract requirements also apply to an order from a Federal Supply Schedule contract, Governmentwide acquisition contract, or other indefinite-delivery contract if the requirements consolidated under the order meet the definition of "bundling" at FAR 2.101.

3. Table 1807-1 is revised to read as follows:

TABLE 1807-1

**FORMAT
MASTER BUY PLAN PROCEDURES**

Line Item No.: _____
Installation: _____

FY _____

Page No.: _____
Date: _____

(1) Cognizant Headquarters Office	(2) Descriptive Title of Procurement	(3) Estimated Dollar Value	(4) Acquisition Plan	(5) JOFOC	(6) RFP
(7) SEB	(8) Pre-Neg	(9) Contract Review	(10) Current Status	(11) Remarks	

INSTRUCTIONS

General

1. Prepare on 8½"x11" paper or electronically.
2. List only *one* procurement on each page and number each page. Sequentially number each procurement action with a two digit "Line Item Number" beginning with "01" for each annual submission and subsequent amendments.
3. For the initial submissions only, list procurements and their current status from prior fiscal year(s) Master Buy Plans and amendments to MBPs that have not been completed.
4. Do not reproduce these instructions on the submission.

Supplementary instructions by heading number

- (1) Include letter code and Headquarters contact, if known.
- (2) Include an "N" to indicate new procurement or "FO" to indicate follow-on procurement.
- (3) A range of dollar values may be used, if the exact value is unavailable. Express the range as \$120M to \$25M, \$25M, \$25M to \$50M, and so forth in \$25M increments. Include all phases of the procurement. All dollar values must be in real year dollars, *i.e.*, adjusted to include anticipated inflation.
- (4) Installation recommendation ("Y" or "N") that an Acquisition Strategy Meeting be held. (The final decision will be made by Headquarters upon review of the MBP submission.)
- (5)-(9) Use "X" to indicate applicable documents. If Column (7) contains an "X", include your recommendation in that column for the Source Selection Official (SSO). The recommendation should be either the Center SSO or Headquarters SSO (HSSO).
- (10) Status should include scheduled date for next event. (Complete horizontally.)

(11) Include data considered pertinent and indicate expected date for placement of contract. If less than full and open competition is involved, indicate the authority being used, identify the firm(s) to which the procurement is being limited, and indicate the current status of the justification document. Include the names and telephone numbers of the cognizant installation procurement person and technical representative. Indicate if the procurement will result in a bundled contract as defined in FAR 2.101.

PART 1819—SMALL BUSINESS PROGRAMS

1819.202–170 [Removed]

4. Section 1819.202–170 is removed.
[FR Doc. 00–19270 Filed 7–31–00; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000119014–0137–02; I.D. 072600E]

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for Summer Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvested for summer period.

SUMMARY: NMFS announces that the scup commercial quota available in the summer period to the coastal states from Maine to North Carolina has been harvested. Federally-permitted commercial vessels may not land scup in these states for the remainder of the 2000 summer quota period (through October 31, 2000). Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that the quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing for the remainder of the summer period.

DATES: Effective 0001 hours, August 1, 2000 through 2400 hours, October 31, 2000.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Regulations governing the scup fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into three quota periods. The summer commercial quota (May through October) is distributed to the coastal states from Maine through North

Carolina on a coastwide basis. The process to set the annual commercial quota and the seasonal allocation is described in § 648.120.

The total commercial quota for scup for the 2000 calendar year was set at 2,534,160 lb (1,149,476 kg) (65 FR 33486; May 24, 2000). The summer period quota was initially set at 987,055 lb (447,721 kg). As specified in § 648.120, landings in excess of the commercial quota in the 1999 summer period were deducted from the summer period allocation this year, resulting in a final summer quota allocation of 685,628 lb (310,996 kg).

Section 648.121 requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the commercial scup quota for each quota period and, based upon dealer reports, state data, and other available information, to determine when the commercial quota for a period has been harvested. NMFS is required to publish notification in the **Federal Register** advising that, effective upon a specific date, the scup commercial quota has been harvested, and notifying vessel and dealer permit holders that no commercial quota is available for landing scup for the remainder of the period. The Regional Administrator has determined, based upon dealer reports and other available information, that the scup commercial quota for the 2000 summer period has been harvested and no further quota is available through October 31, 2000.

The regulations at § 648.4(b) provide that Federal scup moratorium permit holders agree as a condition of the permit not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for scup is available. Therefore, effective 0001 hours, August 1, 2000, further landings of scup by vessels holding Federal scup moratorium permits are prohibited through October 31, 2000. The Winter II period for commercial scup harvest will open on November 1, 2000. Effective 0001 hours, August 1, 2000, federally-permitted dealers are also advised that they may not purchase scup from federally-permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the summer period (through October 31, 2000).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: July 27, 2000.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–19360 Filed 7–27–00; 3:50 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000426114–0114–01; I.D. 072600D]

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Quota Harvested for Period 1

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest for period 1.

SUMMARY: NMFS announces that the spiny dogfish commercial quota available in period 1 to the coastal states from Maine through Florida has been harvested. Commercial vessels may not land spiny dogfish from Maine through Florida for the remainder of the 2000 quota period 1 (through October 31, 2000). Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing spiny dogfish in these states.

DATES: Effective August 1, 2000, 0001 hrs, local time, through October 31, 2000, 2400 hrs, local time.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist, at (978) 281–9226.

SUPPLEMENTARY INFORMATION: Regulations governing the spiny dogfish fishery are found at 50 CFR part 648. The regulations require annual

specification of a commercial quota that is allocated into two quota periods based upon percentages of the annual quota. The period 1 commercial quota (May through October) is distributed to the coastal states from Maine through Florida. The process to set the annual commercial quota is described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2000 calendar year was set equal to 4,000,000 lb (1,814 mt) (65 FR 25887, May 4, 2000). The period 1 quota, which is equal to 57.9 percent of the annual commercial quota, was set at 2,316,000 lb (1,050 mt).

Section 648.231 requires the Regional Administrator Northeast Region, NMFS (Regional Administrator) to monitor the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data and other available information, to determine when the commercial quota has been harvested. NMFS is required to publish a notice in the **Federal Register** advising and notifying commercial vessels and dealer

permit holders that, effective upon a specific date, the spiny dogfish commercial quota has been harvested and no commercial quota is available for landing spiny dogfish for the remainder of period 1. The Regional Administrator has determined, based upon dealer reports and other available information, that the spiny dogfish commercial quota for the 2000 period 1 has been harvested.

The regulations at § 648.4(b) provide that Federal spiny dogfish permit holders agree as a condition of the permit not to land spiny dogfish in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for the spiny dogfish fishery is available. The Regional Administrator has determined that period 1 for spiny dogfish no longer has commercial quota available. Therefore, effective 0001 hrs local time, August 1, 2000, further landings of spiny dogfish in coastal states from Maine through

Florida by vessels holding commercial Federal fisheries permits are prohibited through October 31, 2000, 2400 hrs local time. The quota for period 2 for commercial spiny dogfish harvest will open on November 1, 2000. Effective August 1, 2000, federally permitted dealers are also advised that they may not purchase spiny dogfish from federally permitted spiny dogfish permit holders that land in coastal states from Maine through Florida for the remainder of period 1 (through October 31, 2000).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: July 26, 2000.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Service.

[FR Doc. 00-19359 Filed 7-27-00; 3:50 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 65, No. 148

Tuesday, August 1, 2000

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 905

[Docket No. FV00-905-3 PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Proposed Increase in the Minimum Size Requirements for Dancy, Robinson, and Sunburst Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the minimum size requirements for Dancy, Robinson, and Sunburst tangerines grown in Florida. The minimum size requirements would be increased to 2⁵/₁₆ inches diameter for both domestic and export shipments. The marketing order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is administered locally by the Citrus Administrative Committee (Committee). This proposed rule would help the Florida tangerine industry meet market demands for larger fruit and should help increase returns to producers.

DATES: Comments must be received by August 31, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab/html>.

FOR FURTHER INFORMATION CONTACT: William Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (863) 299-4770, Fax: (863) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for

a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This contributes to stable marketing conditions in the interest of growers, handlers, and consumers, and helps increase returns to Florida citrus growers. The current minimum grade standard for domestic and export shipments of Dancy, Robinson, and Sunburst tangerines is U.S. No. 1. The current minimum size requirement for domestic shipments is 2⁴/₁₆ inches in diameter (size 210), and the minimum size for export shipments is 2³/₁₆ inches in diameter for Dancy tangerines and 2⁴/₁₆ for Robinson and Sunburst.

This proposed rule invites comments on a change to the order's rules and regulations that would increase the minimum size requirement for domestic and export shipments of Dancy, Robinson, and Sunburst tangerines. This rule would increase the minimum size to 2⁵/₁₆ inches in diameter for Dancy, Robinson, and Sunburst tangerines both for domestic and export shipments. This proposed rule would help the Florida tangerine industry meet market and industry demands for larger fruit and should help increase returns to producers. The Committee met on May 26, 2000, and unanimously recommended this action.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR part 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida tangerines. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b).

This rule would adjust Table I and Table II to establish a minimum size of 2⁹/₁₆ inches diameter for Dancy, Robinson, and Sunburst tangerines.

This proposed rule would increase the minimum size requirement for domestic and export shipments of Dancy, Robinson, and Sunburst tangerines. Based on an analysis of markets and demands of buyers, the Committee believes that an increase in minimum size would improve the marketing of Florida tangerines. This follows an industry movement toward shipping larger tangerines. New commercial varieties have resulted in larger-sized tangerines being shipped in response to a strong consumer demand. Because of this demand, production of larger tangerines has been a popular method of improving returns among producers as it also increases total yields.

The shift toward tangerine varieties producing larger fruit has been in response to customer needs. Robinson and Dancy tangerines tend to be smaller varieties. Overall, production of these two varieties has decreased by more than 60 percent from the 1995–96 season to the 1999–2000 season. Conversely, production of larger varieties such as Sunburst and Fallglo has been increasing. In terms of total shipments of Dancy, Robinson, and Sunburst tangerines, Sunburst represented almost 95 percent of combined shipments for the 1999–2000 season.

The preference for large sizes is also evident in the volume of small sizes shipped. From the 1995–96 season to the 1999–2000 season, shipments of size 210 fruit accounted for on average less than 1.3 percent of total Dancy, Robinson, and Sunburst tangerine shipments. Even during the 1998–99 season when sizes for all Florida citrus were unusually small, shipments of size 210 tangerines only accounted for 2.3 percent of total shipments of these three varieties.

The change in the minimum size was recommended to address this movement of customer demand and industry production toward larger sizes. Size continues to be a major influence on price. The Committee believes that the availability of small size 210 fruit has a negative affect on market price. In terms of price, a carton of size 210 (2⁴/₁₆ inch diameter) tangerines can be as much as \$3 less than a carton of size 176 (2⁹/₁₆ inch) tangerines. For the 1999–2000 season, the average price for a carton of size 210 Dancy, Robinson, or Sunburst tangerines was \$7.80. This compares to a weighted average price for all sizes of \$11.26. The Committee believes

increasing the minimum size would match supply with demand and lessen the price depressing affect of smaller sizes.

In addition, the seasons for these three varieties are short. The season for the Dancy tends to be three weeks long, five weeks for the Robinson, and 12 weeks for the Sunburst. With this short marketing window, it is of increased importance that only the best, most preferred fruit enters the market. The market has no time to recover from shipments of fruit that have a depressing effect on price. Also, on average, approximately 65 percent of the crop for these three varieties goes to the fresh market. With the on tree price for processing averaging less than \$1.00, it is imperative that the fresh market be maintained.

The increase in the minimum size to 2⁹/₁₆ inches in diameter is not expected to significantly affect the total number of shipments. During the 1999–2000 season, of the approximate 3,821,000 ⁴/₅ bushel container shipments of Dancy, Robinson, and Sunburst tangerines from Florida, only about 20,670 cartons were size 210. Therefore, the increase in the size requirement would only reduce shipments by around .5 percent. This change would also make the minimum size consistent for all tangerines, as the minimum size is already 2⁹/₁₆ inches for Fallglo and Honey tangerines.

Experience has shown that providing uniform quality and size acceptable to consumers helps stabilize the market, improve grower returns, and foster market growth. The increased minimum size would match supply to market preferences, which would benefit both producers and handlers of Florida tangerines. Increasing the minimum size is expected to further enhance consumer demand and would encourage repeat purchases resulting in increased returns to producers. Therefore, based on available information, the Committee unanimously recommended that the minimum size for shipping Dancy, Robinson, or Sunburst tangerines to the domestic and export market be 2⁹/₁₆ inches in diameter.

Handlers in Florida shipped approximately 3,821,000 ⁴/₅ bushel cartons of tangerines to the fresh market during the 1999–2000 season. Of these cartons, about 150,000 were exported. In the past three seasons, domestic shipments of Florida tangerines averaged about 3.5 million cartons.

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

Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 55 tangerine handlers who are subject to regulation under the order, and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which include tangerine handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000 (13 CFR 121.201).

Based on industry and Committee data for the 1999–2000 season, the average annual f.o.b. price for fresh tangerines was around \$12.00 per ⁴/₅ bushel carton, and total fresh shipments for the 1999–2000 season were 3,821,000 cartons of tangerines. Approximately 25 percent of all handlers handled 70 percent of Florida tangerine shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 55 percent of tangerine handlers could be considered small businesses under SBA's definition. The majority of these handlers, and growers may be classified as small entities.

This proposed rule would increase the minimum size requirement for domestic and export shipments of tangerines to 2⁹/₁₆ inches in diameter for the Dancy, Robinson, and Sunburst varieties. The current minimum size requirement for domestic shipments is 2⁴/₁₆ inches in diameter, and the minimum size for export shipments is 2²/₁₆ inches in diameter for Dancy tangerines and 2⁴/₁₆ for Robinson and Sunburst. Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR part 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida tangerines. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). This rule would adjust

Table I and Table II to establish a minimum size of 2⁹/₁₆ inches in diameter for Dancy, Robinson, and Sunburst tangerines. This proposed rule would help the Florida tangerine industry meet market and industry demands and should help increase returns to producers.

The costs associated with this rule are expected to be minimal. The increase in the minimum size is not expected to significantly affect the total number of tangerine shipments. Rather, the Committee believes this size increase would help improve the marketing of Florida tangerines. The direct cost related to this change would stem from the shipment volume of size 210 tangerines times price. In terms of last season, that would be approximately 20,670 cartons times the average price for size 210 tangerines, \$7.80, for a possible cost of about \$161,226.

However, the Committee believes that this action would help stabilize prices and increase shipments. This change was made to address the increasing demand for larger sizes. While there are some short-term costs associated with increasing the minimum size, the benefits are expected to outweigh the costs. If this regulation just succeeds in raising returns five cents a carton, it would more than cover its costs. In addition, this change should not require the purchase of any additional equipment. This action is consistent with current and anticipated demand. The opportunities and benefits of this rule are expected to be equally available to tangerine handlers and growers regardless of their size of operation.

The Committee considered one alternative to this action. The Committee discussed leaving the

regulations as they were. However, this alternative was rejected based on the consideration of current demand for larger sizes and the possible negative impact on price resulting from maintaining the current minimum size.

This proposed rule would increase size requirements under the marketing order for Florida citrus. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large tangerine handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. However, tangerines must meet the requirements as specified in the U.S. Standards for Grades of Florida Tangerines (7 CFR 51.1810 through 51.1837) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 26, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may

be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in place as soon as possible since handlers will begin shipping tangerines in September. Also, Florida tangerine handlers are aware of this issue which was discussed at a public meeting and was unanimously recommended by the Committee. All comments received in a timely manner will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangerines, Tangelos.

For the reasons set forth in the preamble, 7 CFR part 905 is proposed to be amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 905.306, Table I in paragraph (a) and Table II in paragraph (b) are amended by revising the entries for Dancy, Robinson, and Sunburst under “Tangerines,” to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
TANGERINES			
Dancy	On and after 9/1/00	U.S. No. 1	2 ⁹ / ₁₆
Robinson	On and after 9/1/00	U.S. No. 1	2 ⁹ / ₁₆
Sunburst	On and after 9/1/00	U.S. No. 1	2 ⁹ / ₁₆
*	*	*	*

(b) * * *

TABLE II VARIETY

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
TANGERINES			
Dancy	On and after 9/1/00	U.S. No. 1	2 ⁹ / ₁₆
Robinson	On and after 9/1/00	U.S. No. 1	2 ⁹ / ₁₆
Sunburst	On and after 9/1/00	U.S. No. 1	2 ⁹ / ₁₆

* * * * *

Dated: July 27, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00-19344 Filed 7-31-00; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212, 236, and 241

[INS No. 2029-00; AG Order No. 2310-2000]

RIN 1115-AF82

Detention of Aliens Ordered Removed

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 30, 2000, at 65 FR 40540, the Immigration and Naturalization Service published a proposed rule in the **Federal Register**, to provide a uniform review process governing the detention of criminal, inadmissible, and other aliens, excluding Mariel Cubans, who have received a final order but whose departure has not been effected within the 90-day removal period. To ensure that the public has ample opportunity to fully review and comment on the proposed rule, this notice extends the public comment period from July 31, 2000, through August 11, 2000.

DATES: Written comments must be submitted on or before August 11, 2000.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2029-00 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Joan S. Lieberman, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW., room 6100, Washington, DC 20536, telephone 202-514-1932.

Dated: July 27, 2000.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00-19412 Filed 7-28-00; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-AG20

Loan Guaranty: Net Value and Pre-Foreclosure Debt Waivers

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: We propose to amend the Loan Guaranty Regulations to change the formula for calculating the net value of property securing VA guaranteed loans being terminated and to add criteria for granting preforeclosure debt waivers. The proposed changes regarding net value appear necessary to more accurately reflect current costs. The proposed changes regarding waivers appear necessary to more accurately reflect statutory intent.

DATES: Comments must be received on or before October 2, 2000. VA proposes to make these regulations effective 30 days after publication of the final regulations.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AG20." All

written comments received will be available for public inspection at the above address, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Fyne, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington DC 20420, (202) 273-7380.

SUPPLEMENTARY INFORMATION: We propose to amend the Loan Guaranty Regulations to change the formula for calculating the net value of property securing VA guaranteed loans being terminated and to add criteria for granting preforeclosure debt waivers.

Under current law, when a VA guaranteed loan is reported as being in default, the Secretary is required to establish the "net value" of the property securing the guaranteed loan in default. "Net value" means the fair market value of the property minus certain costs that VA would incur to acquire, manage, and dispose of the property. The relationship between the net value of the property, the total indebtedness of the veteran at the time of loan termination, and the amount of VA's guaranty determines whether or not VA may acquire the property following foreclosure from the foreclosing loan holder. These factors also affect the Government's claim payment to the foreclosing holder under the guaranty. In addition, they will affect the amount of the veteran's debt to the Government under those circumstances where, by law, VA is entitled to establish a debt against a veteran. Moreover, they affect the VA's loss on the guaranty transaction which, in turn, will affect the veteran's ability to have previously-used entitlement restored.

Under § 36.4301, VA computes "net value" using cost data for the preceding three fiscal years. We propose to change how VA computes "net value." Instead

of using three years data, we propose to use data only from the most recent fiscal year. VA believes this change will lead to a calculation of net value that is more reflective of current costs.

We also propose to make nonsubstantive changes to the definition of "net value" for purposes of clarification and conformance to statutory provisions.

Currently § 36.4323(e)(1) sets forth provisions regarding waiver by VA of the establishment of a debt against a veteran whose VA guaranteed loan is being foreclosed. We propose to include provisions stating that VA may grant a preforeclosure debt waiver if the default was caused by a transferee-owner, and there is no indication of fraud, misrepresentation, or bad faith on the part of the veteran. Public Law 101-236 eliminated "material fault" as a bar to waiving a veteran's debt. We believe our proposed changes are consistent with this statutory enactment.

We also would make citation corrections in § 36.4323(e)(4).

This proposed rule supercedes an earlier proposed rule published in the **Federal Register** on September 22, 1993 (58 FR 49251). The earlier proposed rule was the same in substance as this proposed rule.

Executive Order 12866

This proposed rule has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The proposed rule only affects VA guaranteed loan foreclosures. Such foreclosures represent only a small part of affected lenders' businesses. Moreover, the effect of the proposed rule would be cost-neutral in almost all cases. Therefore, pursuant to 5 U.S.C.

605(b), the proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.118.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan programs—housing and community development, Manufactured homes, Veterans.

Approved: March 16, 2000.

Togo D. West, Jr.,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is proposed to be amended as follows:

PART 36—LOAN GUARANTY

1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501, 3701-3704, 3707, 3710-3714, 3719, 3720, 3729, 3762, unless otherwise noted.

2. In § 36.4301, the definition for the term "Net value" is amended by revising the introductory text and paragraph (3) to read as follows:

§ 36.4301 Definitions.

* * * * *

Net value. The fair market value of real property, minus an amount representing the costs that the Secretary estimates would be incurred by VA in acquiring and disposing of the property. The number to be subtracted from the fair market value will be calculated by multiplying the fair market value by the current cost factor. The cost factor used will be the most recent percentage of the fair market value that VA calculated and published in the Notices section of the **Federal Register** (it is intended that this percentage will be calculated annually). In computing this cost factor, VA will determine the average operating expenses and losses on resale incurred for properties acquired under § 36.4320 which were sold during the preceding fiscal year and the average administrative cost to VA associated with the property management activity. The final net value derived from this calculation will be stated as a whole dollar amount (any fractional amount will be rounded up to the next whole dollar). The cost items included in the calculation will be:

* * * * *

(3) *Administrative costs.* (i) An estimate of the total cost for VA of personnel (salary and benefits) and overhead (which may include things

such as travel, transportation, communication, utilities, printing, supplies, equipment, insurance claims and other services) associated with the acquisition, management and disposition of property acquired under § 36.4320. The average administrative costs will be determined by:

(A) Dividing the total cost for VA personnel and overhead salary and benefits costs by the average number of properties on hand and adjusting this figure based on the average holding time for properties sold during the preceding fiscal year; then

(B) Dividing the figure calculated in paragraph (3)(i)(A) of this definition by the VBA ratio of personal services costs to total obligations.

(ii) The three cost averages will be added to the average loss on property sold during the preceding fiscal year (based on the average property purchase price) and the sum will be divided by the average fair market value at the time of acquisition for properties which were sold during the preceding fiscal year to derive the percentage to be used in estimating net value.

3. In § 36.4323 amend paragraph (e)(1)(v) at the end of the paragraph by removing "liability." and adding, in its place, "liability; or"; add paragraph (e)(1)(vi); and revise the first sentence in paragraph (e)(4) and the authority citation at the end of paragraph (e)(4), to read as follows:

§ 36.4323 Subrogation and indemnity.

* * * * *

(e) * * *

(1) * * *

(vi) The obligor being released is not the current titleholder to the property and there are no indications of fraud, misrepresentation, or bad faith on the obligor's part in obtaining the loan or disposing of the property or in connection with the loan default.

* * * * *

(4) Determinations made under paragraphs (e)(1) and (e)(2) of this section are intended for the benefit of the Government in reducing the amount of claim payable by VA and/or avoiding the establishment of uncollectable debts owing to the United States. * * *

(Authority: 38 U.S.C. 501, 3703(c)(1), 5302)

* * * * *

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Parts 222 and 229**

[Docket No. FRA-1999-6439, Notice No. 2]

RIN 2130-AA71

Use of Locomotive Horns at Highway-Rail Grade Crossings

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Proposed rule; notification of congressional contacts.

SUMMARY: On January 13, 2000, FRA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) regarding the use of locomotive horns at highway-rail grade crossings (65 FR 2230). This document provides information pertaining to contacts that FRA officials have had with various with members of Congress regarding the NPRM.

ADDRESSES: The public docket is available at DOT's Docket Management Facility at room PL-401, 400 7th Street, SW., Washington, DC 20590. All documents are also available at the docket facilities web site at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Mark H. Tessler, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: 202-493-6061).

SUPPLEMENTARY INFORMATION:**Backgrounds***Congressional Meeting*

In the NPRM published on January 13, 2000, FRA established a comment period during which the public could provide its views on the NPRM. FRA stated: "Comments must be received by May 26, 2000. Comments received after that date will be considered to the extent possible without incurring additional expense or delay."

On June 22, 2000, Federal Railroad Administrator Jolene Molitoris met with certain members of Congress at their request to discuss the pending rulemaking. At the meeting, attended by Administrator Molitoris, FRA Chief Counsel S. Mark Lindsey, Speaker Dennis Hastert, Senator Richard Durbin, and Representatives William Lipinski, Judy Biggert, and John Porter, the FRA officials received a proposal from the Members concerning the proposed locomotive horn rule.

A summary of the discussion, together with the proposal presented to the

Administrator has been placed in the public docket of this proceeding and is identified as Document Number 2316 of Docket No. FRA-1999-6439. This document, together with all other documents contained in the public docket is available at DOT's Docket Management Facility at room PL-401, 400 7th Street, SW., Washington, DC 20590. All documents are also available at the docket facilities web site at <http://dms.dot.gov>.

Congressional Hearing

On July 18, 2000, Deputy Administrator John V. Wells testified before the House Subcommittee on Ground Transportation of the Committee on Transportation and Infrastructure regarding the NPRM. FRA will submit to the docket a copy of the transcript of that hearing when it is made available to FRA.

Issued in Washington, DC, on July 25, 2000.

S. Mark Lindsey,
Chief Counsel.

[FR Doc. 00-19397 Filed 7-31-00; 8:45 am]

BILLING CODE 4910-06-M**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 575**

[Docket No. NHTSA-2000-6859; Notice 2]

RIN 2127-AC64

Consumer Information Regulations; Federal Motor Vehicle Safety Standards; Rollover Prevention

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Extension of comment period.

SUMMARY: This document grants a request by the Alliance of Automobile Manufacturers to extend, for 30 days, the comment period on the agency's request for comment on the proposal to include ratings for rollover resistance in the New Car Assessment Program.

DATES: The comment period will close on August 30, 2000.

ADDRESSES: Comments should refer to Docket No. NHTSA-2000-6859 and be submitted to: Docket Management, Room PL-401, 400 Seventh St, SW, Washington, DC 20590. Docket room hours are from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gayle Dalrymple, Office of Crash

Avoidance Standards 202-366-5559 or by FAX to 202-493-2739. The mailing address is National Highway Traffic Safety Administration, NPS-23, 400 Seventh St, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On Thursday, June 1, 2000, NHTSA published a request for comment on the agency's intent to include a vehicle measure of rollover resistance, its Static Stability Factor (SSF), as an addition to the New Car Assessment Program (NCAP).

The agency believes that consumer information on the rollover risk of passenger cars and light multipurpose passenger vehicles and trucks, based on the vehicle's SSF, would reduce the number of injuries and fatalities from rollover crashes. This information would enable prospective purchasers to make informed choices about new vehicles based on differences in real-world rollover risk and serve as a market incentive to manufacturers in striving to design their vehicles with greater rollover resistance.

Included in the notice was a new statistical study undertaken to demonstrate a relationship between SSF and rollover rate representative of the whole country. A relationship between rollover rate and SSF normalized to the national rollover rate and to a nationally representative set of driver and road use variables was developed as a basis for a comparative rating system for rollover risk in the event of a single-vehicle crash. We had available crash reports of 185,000 single-vehicle crashes from six states from 1994 to 1997 in which it was possible to determine the make/model of the vehicles and whether rollover occurred in the course of a single-vehicle crash, and for which SSF data were also available. We also had the NASS GES data sampling system, with far fewer but nationally representative crash reports, to determine the national average rollover rate for the population of vehicles investigated in the state reports.

The notice specified a comment closing date of July 31, 2000 (60 days after date of publication). However, on July 10, 2000 we received a request for an extension of the comment closing date from the Alliance of Automobile Manufacturers (AAM). The AAM stated that it would need an additional 30 days to allow for replication and analysis of the statistical study presented in the appendix to the notice.

NHTSA wants the public to have adequate time to analyze the statistical study and other facts that are the basis for our proposed rollover rating system. The request for an additional 30 days

does not seem excessive. Thus, in order to provide the AAM and other interested parties ample time and opportunity to analyze the study presented in the notice and to express their views on the proposal, NHTSA believes that there is good cause for the extension of the comment period and that such extension is consistent with the public interest. Accordingly, the AAM request to extend the comment period for an additional 30 days is granted. The comment period will now close August 30, 2000.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority is at 49 CFR 1.50.

Issued on: July 26, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 00-19398 Filed 7-31-00; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 070500C]

Atlantic Highly Migratory Species Fisheries; Additional Scoping Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Scoping meetings.

SUMMARY: On July 19, 2000, NMFS published a notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS); notice of availability

of Biological Opinion (BO); and an announcement of scoping meetings. NMFS also announced that additional scoping meetings may be scheduled at a later date. NMFS herewith announces two additional scoping meetings.

To accommodate people unable to attend a scoping meeting or wishing to provide written comments, NMFS also solicits written comments on these documents.

DATES: The additional scoping meetings are scheduled as follows:

1. Wednesday, August 16, 2000—Manteo, NC 7–9:30 p.m.
2. Thursday, August 18, 2000—Cape Canaveral, FL 7–9:30 p.m.

ADDRESSES: The locations for the additional scoping meetings are as follows:

1. N.C. Aquariums, Roanoke Island, Neptune Theater, 374 Airport Road, Manteo, NC 27954.
2. Radisson Resort at the Port & Conference Ctr. 8701 Astronaut Boulevard, Cape Canaveral, FL 32920.

Written comments on the proposal to prepare the SEIS and requests for copies of the BO should be sent to: Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to (301) 713-1917. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Margo Schulze-Haugen or Karyl Brewster-Geisz, 301-713-2347; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: Background information about the Supplemental Environmental Impact Statement (SEIS), the Biological Opinion, and a list of other scoping

meetings are contained in the announcement published July 19, 2000 (65 FR 44753) and is not repeated here.

Public Hearings and Special Accommodations

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a NMFS representative will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the hearing.

Special Accommodations

The scoping meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Margo Schulze-Haugen or Karyl Brewster-Geisz (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the hearing or meeting.

Authority: 16 U.S.C. 971 *et seq.*, and 16 U.S.C. 1801 *et seq.*

Dated: July 27, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00-19389 Filed 7-31-00; 8:45 am]

BILLING CODE 3510-22-F

Notices

Federal Register

Vol. 65, No. 148

Tuesday, August 1, 2000

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.

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING:
Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, August 4, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION:
Jean A. Webb, 202-418-5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 00-19493 Filed 7-28-00; 12:31 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING:
Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, August 11, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION:
Jean A. Webb, 202-418-5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 00-19494 Filed 7-28-00; 12:32 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING:
Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, August 18, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION:
Jean A. Webb, 202-418-5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 00-19495 Filed 7-28-00; 12:32 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING:
Commodity Futures Trading Commission

TIME AND DATE: 11 a.m., Friday, August 25, 2000

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room

STATUS: Closed

MATTERS TO BE CONSIDERED: Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION:
Jean A. Webb, 202-418-5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 00-19496 Filed 7-28-00; 12:32 pm]
BILLING CODE 6351-01-M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Grants to Support the Martin Luther King, Jr. Service Day Initiative

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (the Corporation), in consultation with the

Martin Luther King, Jr. Center for Nonviolent Social Change, Inc. in Atlanta, invites applications for grants to pay for the federal share of the cost of planning and carrying out service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. on January 15, 2001.

The purpose of the grants is to mobilize more Americans to observe the Martin Luther King, Jr. federal holiday as a day of service in communities and to bring people together around the common focus of service to others. To achieve this, we will make approximately \$500,000 in grant funds available to support approved service opportunities. Eligible organizations may apply for a grant in one of the following two categories. The first category, in amounts of up to \$3,500, will support national service and community volunteering projects of a relatively small scale and limited geographical scope. The second category, in amounts of up to \$10,000, will support large-scale (e.g., state-wide, city-wide, county-wide, or regional) service projects. By large-scale, we mean that the service involves a large number of participants in a geographic area. We expect to award a greater number of small-scale grants.

DATES: The deadline for submission of applications is September 15, 2000, no later than 5 p.m. local time.

ADDRESSES: Obtain applications from and return them to the Corporation state office in your state unless otherwise noted. See Supplementary Information section for Corporation state office addresses. Address the application to: Martin Luther King, Jr. Day of Service, Corporation for National Service (Appropriate State Address).

FOR FURTHER INFORMATION CONTACT: For further information, contact the person listed for the Corporation office in your state, unless otherwise noted. You may request this notice in an alternative format for the visually impaired by calling (202) 606-5000, ext. 262. The Corporation's T.D.D. number is (202) 565-2799 and is operational between the hours of 9 a.m. and 5 p.m. Eastern Daylight Time.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation, established by

Congress in the 1993 amendments to the National and Community Service Act of 1990 (the Act) that engages Americans of all ages and backgrounds in service to communities. This service addresses the nation's education, public safety, environmental, or other human needs to achieve direct and demonstrable results with special consideration to service that affects the needs of children. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. The Corporation supports a range of national service programs including AmeriCorps, Learn and Serve America, and the National Senior Service Corps. In providing grants to support service in connection with the Martin Luther King, Jr. federal holiday, the Corporation acts in consultation with the Martin Luther King, Jr. Center for Nonviolent Social Change, Inc. For more information about the Corporation and the programs it supports, go to <http://www.nationalservice.org>. For more information about the King Center, go to <http://www.thekingcenter.com>.

Section 12653(s) of the Act, as amended in 1994, authorizes the Corporation to make grants to share the cost of planning and carrying out service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. We will fund grants to support activities that will (1) get necessary things done in communities, (2) strengthen the communities engaged in the service activity, (3) reflect the life and teaching of Martin Luther King, Jr., (4) respond to one or more of the goals set forth at the Presidents' Summit for America's Future and include young people as service providers, not just recipients of service, and (5) begin or occur in significant part on the federal legal holiday (January 15, 2001).

Getting things done means that projects funded under the Martin Luther King Jr. holiday grant will help communities meet education, public safety, environmental, or other human needs through direct service and effective citizen action. Accordingly, we expect well designed activities that meet compelling community needs and lead to measurable outcomes and impact.

Strengthening communities means bringing people together in pursuit of a common objective that is of value to the community. On Martin Luther King, Jr. Day in 1998, President Clinton said “* * * to achieve one America, we must go beyond words to deeds. Serving together on the King holiday—and

everyday—will bring our nation closer together and help meet some of our toughest challenges.” Projects should seek to engage a wide range of local partners in the communities served. You should design, implement, and evaluate projects with partners, including local and state King Holiday Commissions, national service programs (AmeriCorps, Learn and Serve America, and the National Senior Service Corps), state and local organizations affiliated with the campaign for children and youth launched at the Presidents' Summit for America's Future and carried forward by America's Promise—the Alliance for Youth, community-based agencies, schools and school districts, Volunteer Centers of the Points of Light Foundation and other volunteer organizations, local United Ways, communities of faith, businesses, foundations, state and local governments, labor organizations, and colleges and universities.

Reflecting the life and teaching of Martin Luther King, Jr. means demonstrating his proposition that, “Everybody can be great because everybody can serve.” Dr. King's concept of greatness, when expressed through acts of service, offers everyone an opportunity to experience a sense of worth and dignity. His example encourages all ages, races, colors, ethnic groups, genders, nationalities, and abilities to respond to those in need. We are challenged to adopt his philosophy in addressing the evils of discrimination, poverty and violence. Dr. King's abiding faith and earnest belief in the “American Dream” is exemplified by his commitment to justice and his willingness to serve unselfishly. His strategies and determination to use non-violence as a means to transform the hearts of millions should be used as a rousing force to encourage others in their desire to be socially responsible through non-violent direct actions—direct service. You should consider service opportunities for this program that foster cooperation and understanding among racial and ethnic groups, nonviolent conflict resolution, equal economic and educational opportunities, and social justice.

Respond to one or more of the goals of the Presidents' Summit and include young people as service providers, not just recipients of service means that service projects should be designed to help achieve the five basic promises for all children and youth declared at the Presidents' Summit for America's Future and carried forward by America's Promise—the Alliance for Youth, the organization led by General

Colin Powell to pursue the Summit's goals. Those five “promises” for young people are: an ongoing relationship with a caring adult—mentor, tutor, coach; safe spaces and structured activities during non-school hours; a healthy start; an effective education that equips with marketable skills; and an opportunity to give back to their communities through their own service. Particularly important is the fifth goal: to challenge and inspire young people to give at least one hundred hours of service a year. All young people must see themselves—and be seen by others—as resources and leaders, not just as problems or victims. Therefore, you should include young people as service providers and resources in project planning, not just as the recipients of service.

Begin or occur in significant part on the federal legal holiday means that a significant portion of the community service activities supported by the grant should occur on the holiday itself to strengthen the link between the observance of Martin Luther King, Jr.'s birthday, the federal legal holiday (January 15, 2001), and service that reflects his life and teaching.

The direct service you will do on and in connection with the King holiday may include, but is not limited to, the following types of activities: tutoring children or adults, feeding the hungry, packing lunches, delivering meals, repairing a school and adding to its resources, translating books and documents into other languages, recording books for the visually impaired, restoring a public space, organizing a blood drive, registering bone marrow and organ donors, renovating low-income or senior housing, building a playground, removing graffiti and painting a mural, renovating or creating safe spaces for children who are out of school and whose parents are working, collecting oral histories of elders, running health fairs that provide health screenings, immunizations and health insurance information, gleaning and distributing fruits and vegetables, etc.

Although celebrations, parades, and recognition ceremonies may be a part of the activities that you plan on the holiday and lead to or celebrate a commitment to service, these activities do not constitute direct service under this grant and the grant will not fund such activities.

Other service outcomes we will consider in grant applications include, but are not limited to, the following: a day-of-service you design to produce a sustained long-term service commitment; community-wide

servathons that bring a broad cross-section of people together in a burst of energy on one day of service, including schools or school districts that seek to involve all students and teachers in joint service; service-learning projects that link student service in schools and universities with community-based organizations; faith-based service collaborations that bring together communities of faith and secular human service programs (subject to the limitations listed below); and service projects that include a pledge or commitment for continued service throughout the year.

Grant funding will be available on a one-time, non-renewable basis for a budget period not to exceed seven months, beginning no sooner than November 1, 2000 and ending no later than June 30, 2001. By statute, the grants we provide for this program, together with all other federal funds you use to plan or carry out the service opportunity, may not exceed 30 percent of the total cost.

For example, if you request \$3,500 in federal dollars you must have a non-federal match of at least \$8,167 (cash and/or in-kind contributions) and a total projected cost of at least \$11,667. If you request \$10,000 in federal dollars you must have a non-federal match of at least \$23,333 (cash and/or in-kind contributions) and a total projected cost of at least \$33,333. In other words the total project cost multiplied by .30 is the maximum amount of money you can request from the federal government. (Total project cost minus federal dollars requested equals the required match). It may assist in the calculation to apply the formula as follows:

Total Project Cost \times .30 = Maximum Federal Contribution

Total Project Cost – Federal Dollars Requested = Non-Federal Match.

The non-federal match may include cash and in-kind contributions (including, but not limited to, supplies, staff time, trainers, food, transportation, facilities, equipment, and services) necessary to plan and carry out the service opportunity. Grants under this program constitute federal assistance and therefore may not be used primarily to inhibit or advance religion in a material way. You may not use any part of an award from the Corporation to fund religious instruction, worship or proselytization. You may not use any part of an award to pay honoraria or fees for speakers. You may not use any part of an award to support a celebration banquet or other activity that is not connected to the actual service.

The total amount of grant funds we will provide under this Notice will depend on the quality of applications and the availability of appropriated funds for this purpose.

Eligible Applicants

By law, any entity otherwise eligible for assistance under the national service laws is eligible to receive a grant under this announcement. The applicable laws include the National and Community Service Act of 1990, as amended, and the Domestic Volunteer Service Act of 1973, as amended.

Eligible applicants include, but are not limited to: nonprofit organizations, state commissions on service, volunteer centers, institutions of higher education, local education agencies, educational institutions, local or state governments, and private organizations that intend to utilize volunteers in carrying out the purposes of this program.

We especially invite applications from organizations with experience in—and commitment to—fostering service on Martin Luther King, Jr. Day, including state and local Martin Luther King, Jr. Commissions, local education agencies, faith-based partnerships, Volunteer Centers of the Points of Light Foundation, and United Ways and other community-based agencies.

Any grant recipient from the 1997, 1998, 1999, and 2000 Martin Luther King, Jr., Day of Service Initiatives will be ineligible if it has been non-compliant with the terms of those grant awards.

Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities, is not eligible.

Overview of Application Requirements

Applicants should submit the following standard components for federal grants:

1. An Application for Federal Assistance, Standard Form 424.
2. A Project Narrative describing:
 - a. the types of service activities (that lead to measurable outcomes) that you plan in observance of Martin Luther King, Jr. Day, which must take place significantly on the legal federal holiday (January 15, 2001), but which may extend for the budget period (November 1, 2000 through June 30, 2001);
 - b. partnerships in the local community, city, state or region that you are engaging in support of the service activities;
 - c. your organization's background and capacity to carry out this program; and

d. how you propose to staff the activity.

The project narrative portion of the application may be no longer than 7 single-sided pages for applications not to exceed \$3,500 and 15 single-sided pages for applications not to exceed \$10,000. You must type double-spaced in a font no smaller than 12 point and number each page.

3. A Budget Narrative (specific instructions are provided in the application materials).

4. Budget Information—Non-Construction Programs (SF 424A) form in the application package.

5. A signed Assurances—Non-Construction Programs (SF 424B) form incorporating conditions attendant to the receipt of federal funding.

6. Three complete copies (one signed original and two copies) of the application.

We must receive all applications by 5:00 p.m. local time, September 15, 2000 at the Corporation office in your state, unless otherwise noted, addressed as follows:

Martin Luther King, Jr. Day of Service Corporation for National Service (Appropriate state office address; see list of addresses provided below). You may not submit an application by facsimile.

To ensure fairness to all applicants, we reserve the right to take action, up to and including disqualification, in the event that your application fails to comply with the requirements relating to page limits, line-spacing, font size, and application deadlines.

Budget

Detailed instructions about the budget information you must provide are in the application materials.

Selection Process and Criteria

We will review the applications initially to confirm that you are an eligible recipient and to ensure that your application contains the information we require and otherwise complies with the requirements of this notice. We will assess the quality of applications' responsiveness to the objectives included in this announcement based on the following criteria listed below:

1. *Program Design* (60%) The proposal must demonstrate your ability to get necessary things done, strengthen communities, reflect the life and teaching of Martin Luther King Jr., respond to one or more of the goals set forth at the Presidents' Summit for America's Future and include young people as service providers, not just

recipients of service, and begin or occur in significant part on the federal legal holiday, January 15, 2001.

2. Organizational Capacity (25%)

Your application must demonstrate your organization's ability to carry out the activities described in the proposal, including the use of highly qualified staff.

3. Budget/Cost Effectiveness (15%)

You must demonstrate how you will use this grant effectively, including the sources and uses of matching support.

After evaluating the overall quality of proposals and their responsiveness to the criteria noted above, we will seek to ensure that applications we select represent a portfolio that is: (1) Geographically diverse, including projects throughout the five geographical clusters as designated by the Corporation; (2) representative of different population tracts, i.e. rural, urban, suburban; (3) representative of a range of models of service projects.

Awards

We anticipate making selections under this announcement no later than November 1, 2000.

Corporation for National Service State Offices

AK

John Miller, Jackson Federal Bldg., Suite 3190, 915 Second Ave., Seattle, WA 98174-1103, Phone: (206) 220-7745 Fax: (206) 553-4415

AL

Nancy Reeder, Medical Forum, 950 22nd St., N., Suite 428, Birmingham, AL 35203, Phone: (205) 731-0027 Fax: (205) 731-0031

AR

Opal Sims, Federal Building, Room 2506, 700 West Capitol Street, Little Rock, AR 72201, Phone: (501) 324-5234 Fax: (501) 324-6949

AZ

Richard Persely, 522 North Central, Room 205A, Phoenix, AZ 80504-2190, Phone: (602) 379-4825 Fax: (602) 379-4030

CA

Javier LaFianza, 11150 W. Olympic Blvd., Suite 670, Los Angeles, CA 90064, Phone: (310) 235-7421 Fax: (310) 235-7422

CO

James Byrnes, 999 Eighteenth Street, Suite 1440 South, Denver, CO 80202, Phone: (303) 312-7952 Fax: (303) 312-7954

CT

Romero Cherry, 1 Commercial Plaza, 21st Floor, Hartford, CT 06103-3510, Phone: (860) 240-3237 Fax: (860) 240-3238

DC

Thomas Harmon, 400 North 8th Street, Suite 446, P.O. Box 10066, Richmond, VA 23240-1832, Phone: (804) 771-2197 Fax: (804) 771-2157

DE

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FL

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GA

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HI

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IA

Joel Weinstein, Federal Building, Room 917, 210 Walnut Street, DeMoines, IA 50309-2195, Phone: (515) 284-4816 Fax: (515) 284-6640

ID

V. Kent Griffiths, 304 North 8th Street, Room 344, Boise, ID 83702-5835, Phone: (208) 334-1707 Fax: (208) 334-1421

IL

Timothy Krieger, 77 West Jackson Boulevard, Suite 442, Chicago, IL 60604-3511, Phone: (312) 353-3622 Fax: (312) 353-5343

IN

Thomas Haskett, 46 East Ohio Street, Room 457, Indianapolis, IN 46204-1922, Phone: (317) 226-6724 Fax: (317) 226-5437

KS

James Byrnes, 444 S.E. Quincy, Room 260, Topeka, KS 66683-3572, Phone: (785) 295-2540 Fax: (785) 295-2596

KY

Betsy Wells, 600 Martin L. King Place, Room 372-D, Louisville, KY 40202-2230, Phone: (502) 582-6384 Fax: (502) 582-6386

LA

Willard Labrie, 707 Florida Street, Suite 316, Baton Rouge, LA 70801, Phone: (225) 389-0473 Fax: (225) 389-0510

MA

Malcolm Coles, 10 Causeway Street, Room 473, Boston, MA 02222-1038, Phone: (617) 565-7001 Fax: (617) 565-7011

MD

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ME

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MI

Mary Pfeiler, 211 West Fort Street, Suite 1408, Detroit, MI 48226-2799, Phone: (313) 226-7848 Fax: (313) 226-2557

MN

Robert Jackson, 431 South 7th Street, Room 2480, Minneapolis, MN 55415-1854, Phone: (612) 334-4083 Fax: (612) 334-4084

MO

John McDonald, 801 Walnut Street, Suite 504, Kansas City, MO 64106-2009, Phone: (816) 374-6300 Fax: (816) 374-6305

MS

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MT

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NC

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ND

John Pohlman, 225 S. Pierre Street, Room 225, Pierre, SD 57501-2452, Phone: (605) 224-5996 Fax: (605) 224-9201

NE

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NH

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NM

Ernesto Ramos, 120 S. Federal Place, Room 315, Sante Fe, NM 87501-2026, Phone: (505) 988-6577 Fax: (505) 988-6661

NV

Craig Warner, 4600 Kietzke Lane, Suite E-141, Reno, NV 89502-5033, Phone: (775) 784-5314 Fax: (775) 784-5026

NY
Donna Smith, Clinton Ave. & Pearl St., Room 818, Albany, NY 12207, Phone: (518) 431-4150 Fax: (518) 431-4154

OH
Paul Schrader, 51 North High Street, Suite 451, Columbus, OH 43215, Phone: (614) 469-7441 Fax: (614) 469-2125

OK
Zeke Rodriguez, 215 Dean A. McGee, Suite 324, Oklahoma City, OK 73102, Phone: (405) 231-5201 Fax: (405) 231-4329

OR
Robin Sutherland, 2010 Lloyd Center, Portland, OR 97232, Phone: (503) 231-2103 Fax: (503) 231-2106

PA
Jorina Ahmed, Robert N.C. Nix Federal Bldg., 900 Market St., Suite 229, Philadelphia, PA 19107, Phone: (215) 597-2806 Fax: (215) 597-2807

PR
Loretta Cordova, 150 Carlos Chardon Ave., Suite 662, San Juan, PR 00918-1737, Phone: (787) 766-5314 Fax: (787) 766-5189

RI
Vincent Marzullo, 400 Westminster Street, Room 203, Providence, RI 02903, Phone: (401) 528-5426 Fax: (401) 528-5220

SC
Jerome Davis, 1835 Assembly Street, Suite 872, Columbia, SC 29201-2430, Phone: (803) 765-5771 Fax: (803) 765-5777

SD
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TN
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TX
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VI
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VT
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WI
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WV
Judith Russell, 10 Hale Street, Suite 203, Charleston, WV 25301-1409, Phone: (304) 347-5246 Fax: (304) 347-5464

WY
Patrick Gallizzi, Federal Building, Room 1110, 2120 Capitol Avenue, Cheyenne, WY 82001-3649, Phone: (307) 772-2385 Fax: (307) 772-2389

Dated: July 25, 2000

Gary Kowalczyk,

*Coordinator of National Service Programs,
Corporation for National and Community Service.*

[FR Doc. 00-19288 Filed 7-31-00; 8:45 am]

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Privacy Act of 1974; Report of Amended System of Records

AGENCY: Corporation for National and Community Service.

ACTION: Notice of amended system of records.

SUMMARY: Notice is hereby given that in accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), ("the Act"), the Corporation for National and Community Service hereby publishes a notice of its amended system of records due to minor changes to the current system of records as set forth below. Title 5 U.S.C. 552a(e)(4) and (11) provides that the public be given 30 days to comment on the amended system of records. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires 40 days

to conclude its review of the amended system of records.

EFFECTIVE DATES: The proposed changes to the Corporation's system of records becomes effective September 11, 2000.

ADDRESSES: Comments should be addressed to the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Denise Moss, Corporation Records Liaison Officer, 1201 New York Avenue, N.W., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Denise Moss, Corporation Records Liaison Officer, 202-606-5000, extension 384. A copy of this amended system of records may be obtained in an alternate format by calling: TDD, 202-606-5256, or by writing to the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Corporation Records Liaison Officer, 1201 New York Avenue, NW., Washington, DC, 20525.

SUPPLEMENTARY INFORMATION: The Corporation publishes the following notice of its system of records: Notice of System of Records—Preliminary Statement.

Corporation—when used in the notice refers to Corporation for National and Community Service.

AmeriCorps—when used in the notice refers to the Volunteers In Service To America (VISTA) program, the National Civilian Community Corps (NCCC) program, the Leaders program, or the state and national program.

Operating Units—The names of the operating units within the Corporation to which a particular system of records pertains are listed under the system manager and address section of each system notice.

Official Personnel Files—Official personnel files of Federal employees in the General Schedule and the Corporation's Alternative Personnel System, in the custody of the Corporation are considered the property of the Office of Personnel Management. Access to such files shall be in accordance with such notices published by OPM. Access to such files in the custody of the Corporation will be granted to individuals to whom such files pertain upon request to the Corporation for National and Community Service, Director, Human Resources, 1201 New York Avenue, NW., Washington, DC 20525.

Various offices in the Corporation maintain files which contain copies of miscellaneous personnel material affecting Corporation employees. These include copies of standard personnel

forms, evaluation forms, etc. These files are kept only for immediate office reference and are considered by the Corporation to be part of the personnel file system. The Corporation's internal policy provides that such information is a part of the general personnel files and can be disclosed only through the Director, Human Resources, in order that he or she may ensure that any material be disclosed is relevant, current, and fair to the individual employees. Also, it is the policy of the Corporation to limit the use of such files and to encourage the destruction of as many as possible.

Description of Changes

The changes made to the Corporation's system of records are considered to be minor in nature, and consist of the following: (1) Corporation #1, #2, and #17 were renamed; (2) Corporation #3, has been changed to reflect the Alumni Coordinator being responsible for the electronic recordkeeping of the service histories of past VISTA and AmeriCorps*VISTA members; (3) Corporation #12—the STORAGE category was changed to reflect computerized files, and the SAFEGUARDS category was changed to reflect an individual with authority to release files to other members of the Corporation for their official use.

Statement of General Routine Uses

The following general routine uses are incorporated by this reference into each system of records set forth herein, unless specifically limited in the system description.

1. In the event that a record in a system of records maintained by the Corporation indicates, either by itself or in combination with other information in the Corporation's possession, a violation or potential violation of the law (whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule or order issued pursuant thereto), that record may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such referral shall include, and be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

2. A record may be disclosed as a routine use to designated officers and employees of other agencies and departments of the Federal government having an interest in the individual for employment purposes including the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter involved, provided, however, that other than information furnished for the issuance of authorized security clearances, information divulged hereunder as to full-time volunteers under Title I of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951), and the National and Community Service Act of 1990, as amended, shall be limited to the provision of dates of service and a standard description of service as heretofore provided by the Corporation.

3. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosures to opposing counsel in the course of settlement negotiations.

4. A record may be disclosed as a routine use to a member of Congress, or staff acting upon the constituent's behalf, when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

5. Information from certain systems of records, especially those relating to applicants for Federal employment or volunteer service, may be disclosed as a routine use to designated officers and employees of other agencies of the Federal government for the purpose of obtaining information as to suitability qualifications and loyalty to the United States Government.

6. Information from a system of records may be disclosed to any source from which information is requested in the course of an investigation to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

7. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to

respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

8. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

9. A record may be disclosed to a Federal or state grand jury agent pursuant to a Federal or state grand jury subpoena or prosecution request that such record be released for the purpose of its introduction to a grand jury.

10. A record may be referred to suspension/debarment authorities, internal to the Corporation, when the record released is germane to a determination of the propriety or necessity for a suspension or debarment action.

11. A record may be disclosed to a contractor, grantee or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

12. A record may be disclosed to a contractor, grantee or other recipient of Federal funds when the recipient has incurred an indebtedness to the Government through its receipt of Government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

13. Information in a system of records may be disclosed to "Consumer reporting agencies" (as defined in the Fair Credit Reporting Act, 14 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), the U.S. Department of the Treasury or other Federal agencies maintaining debt servicing centers, and to private collection contractors as a routine use for the purpose of collecting a debt owed to the Federal government as provided in regulations promulgated by the Corporation.

14. The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the: (a) Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS), and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish

paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement action; (b) Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement; and (c) Office of Child Support Enforcement for release to the U.S. Department of the Treasury for payroll and savings bonds and other deduction purposes, and for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986), and verifying a claim with respect to employment on a tax return, as required by the Personal Reconciliation and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193).

15. A record may be disclosed as a routine use to a contractor, expert, or consultant of the Corporation (or an office within the Corporation) when the purpose of the release is in order to perform a survey, audit, or other review of the Corporation's procedures and operations.

Locations of Corporation Service Centers/State Offices

The Corporation maintains five Service Centers with State Offices within their service areas. The Services Centers, their addresses, and the States within their service areas are listed below. In the event of any doubt as to whether a record is maintained in a Service Center or State Office, a query should be directed to the address of the Service Center Director for the appropriate state under their jurisdiction where the volunteer performed their service as listed below. The Service Center Director shall furnish all assistance necessary to locate a specified record.

Atlantic Service Center, 801 Arch Street, Suite 103, Philadelphia, PA 19107-2416 (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands).

Southern Service Center, 60 Forsyth, Street SW, Suite. 3M40, Atlanta, GA 30303-3201 (Alabama, District of Columbia, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia).

North Central Service Center, 77 West Jackson Blvd., Suite 442, Chicago, IL 60604-3511 (Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska,

North Dakota, Ohio, South Dakota, and Wisconsin).

Southwest Service Center, 1999 Bryan Street, Suite 2050, Dallas, TX 75201 (Arizona, Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas).

Pacific Service Center, P.O. Box 29996, Building 386, Morgan Avenue, Presidio of San Francisco, CA, 94129-09996 (Alaska, American Samoa, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming).

Notification

Individuals may inquire whether any system of records contains information pertaining to them by addressing the request to the specific Records Liaison Officer for each file category in writing. Such request should include the name and address of the individual, his or her social security number, any relevant data concerning the information sought, and, where possible, the place of assignment or employment, etc. In case of any doubt as to which system contains a record, interested individuals should contact the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Records Liaison Officer, 1201 New York Avenue, NW., Washington, DC 20525, which has overall supervision of records systems and will provide assistance in locating and/or identifying appropriate systems.

Access and Contest

In response to a written request by an individual, the appropriate Records Liaison Officer will arrange for access to the requested record or advise the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the State Program Director in the state where the member performed their assigned duties. If the State Program Director determines that a request to amend an individual's record should be denied, the State Program Director shall provide all necessary information regarding the request to the Corporation's initial denial authority/Privacy Act Officer.

Locations of Corporation AmeriCorps National Civilian Community Corps Campuses

The Corporation maintains five AmeriCorps*National Civilian Community Corps Campuses (NCCC) under its jurisdiction. The Campuses, and their addresses are listed below. In the event there is any doubt as to whether a record is maintained at a campus location, questions should be

directed to the address of the AmeriCorps*NCCC Regional Campus Director for the appropriate campus location where the volunteer performed their service as listed below. The Regional Campus Director shall furnish all assistance necessary to locate a specified record.

AmeriCorps*NCCC Capitol Region Campus, 2 D.C. Village Lane, S.W. Washington, D.C., 20032.

AmeriCorps*NCCC Northeast Campus, VA Medical Center, Building 15, Room 9, Perry Point, MD 21902-0027.

AmeriCorps*NCCC Southeast Campus, 2231 South Hopson Avenue, Charleston, S.C. 29405-2430.

AmeriCorps*NCCC Central Campus, 1059 South Yosemite Street, Bldg 758, Room 213, Aurora, CO 80010-6062.

AmeriCorps*NCCC Western Campus, 2650 Truxtun Road, San Diego, CA 92106-6001.

Access and Contest

In response to a written request by an individual, the appropriate Records Liaison Officer arranges for access to the requested record or advises the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the AmeriCorps*NCCC Regional Campus Director, located at the pertinent address for each campus location as listed above. If the Regional Campus Director determines that a request to amend an individual's record should be denied, the Regional Campus Director shall provide all necessary information regarding the request to the Corporation's initial denial authority/Privacy Act Officer.

Location of the Corporation AmeriCorps*VISTA Alumni Office

The AmeriCorps*VISTA Alumni Office is located at the Corporation's Headquarters in Washington, D.C. This office maintains an electronic history of former VISTA and AmeriCorps*VISTA members.

Notification

Members may inquire whether this system of records contains information pertaining to them by addressing their request to the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, Washington, D.C., 20525, who has overall supervision of this record system. Such request should include the member's name, social security number, and approximate dates of volunteer service.

Access and Contest

In response to a written request by a member, the Alumni Coordinator will arrange for access to the requested record or advise the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, Washington, DC 20525. If the Alumni Coordinator determines that the request to amend a member's record should be denied, the Alumni Coordinator shall provide all necessary information regarding the request to the Corporation's initial denial authority/ Privacy Act Officer.

Listing of System of Records

Momentum Financials Open Obligations and Automated Disbursement Files—Corporation-1
 Momentum Financials Accounts Receivable Files—Corporation-2
 Domestic Full-time Member Census Master File—Corporation-3
 AmeriCorps Full-time Member Personnel Files—Corporation-4
 Employee and Applicant Records Files—Corporation-5
 Employee/Member Occupation Injury/Illness Reports and Claim Files—Corporation-6
 Travel Files—Corporation-7
 AmeriCorps Member Individual Accounts—Corporation-8
 Counselors' Report Files—Corporation-9
 Discrimination Complaint Files—Corporation-10
 Employee Pay and Leave Record Files—Corporation-11
 Freedom of Information Act and Privacy Act Request Files—Corporation-12
 Legal Office Litigation/Correspondence Files—Corporation-13
 Merit Promotion Plan Files—Corporation-14
 Office of the Inspector General Investigative Files—Corporation-15
 Travel Authorization Files—Corporation-16
 Momentum Financials Vendor Files—Corporation-17
 AmeriCorps*VISTA Volunteer Management System Files—Corporation-8

CORPORATION-1**SYSTEM NAME:**

Momentum Financials Open Obligations and Automated Disbursement Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom the agency owes money.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of payee, address, ABA routing number, financial institution name and address, depositor account number, taxpayer identification number, amount owed, date of liability, amount paid, schedule number authorizing the U.S. Department of the Treasury to issue payment and returned or cancelled payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended; the Chief Financial Officer Act of 1990; and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

To maintain a current record of amounts owed and paid by the Corporation.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Data is also released to the Internal Revenue Service in accordance with the Internal Revenue Code.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained electronically and file folders are stored in locked metal file cabinets.

RETRIEVABILITY:

Hardcopy records are indexed alphabetically by name and electronic records may be accessed by name or TIN.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services and other appropriate Corporation officials with the need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Hardcopy records are held for three (3) years and then retired to the Federal Records Center. Electronic records are archived periodically.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services,

Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about individual, that individual should submit a request in writing to the Records Liaison Officer giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the Records Liaison Officer at the address given and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing and disbursing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-2**SYSTEM NAME:**

Momentum Financials Accounts Receivable Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals owing money to the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of debtor, address, taxpayer identification number, amount owed, date of liability, and amount collected or amount forwarded to the U.S. Treasury for further collection action as mandated by DCIA of 1996.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; the Budget and Accounting Procedures Act of 1950, as amended, and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

To maintain a current record of amounts owed and paid to the Corporation.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Data may be disclosed to the U.S. Department of Justice for litigation action; the U.S. Department of the Treasury to pursue further collection action when the Corporation is unable to collect a debt through its own efforts and/or recommended write-off; or to the General Accounting Office in connection with inquiries, audits or investigations related to the Corporation's debt activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services, other authorized Corporation officials with the need for such records in the performance of their duties or forwarded to the U.S. Treasury for further collection action.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, D.C., 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about an individual, that individual should submit a request in writing to the Records Liaison Officer giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the Records Liaison Officer and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing and collecting debts.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION—3**SYSTEM NAME:**

Domestic Full-time Member Census Master File.

SYSTEM LOCATION:

Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has served as a VISTA, or an AmeriCorps*VISTA member.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained contain information extracted from the member's application, information about the member's period of service, and information about the member's history with the Corporation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended.

PURPOSE(S):

The system of records was established to maintain service histories on all former VISTA and AmeriCorps*VISTA members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are stored in electronic database form on the Corporation's internal computer network.

RETRIEVABILITY:

The member's name and/or social security number retrieves records.

SAFEGUARDS:

The material is available only to Corporation and AmeriCorps*VISTA staff. It is not available to anyone else without the express written consent from the individual to release his/her information.

RETENTION AND DISPOSAL:

These records are maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director of AmeriCorps*VISTA, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

NOTIFICATION PROCEDURE:

A former member wishing to determine if this system contains their records should contact the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, NW, Washington, DC 20525, and provide their name, social security number, and approximate dates of volunteer service.

RECORDS ACCESS PROCEDURES:

A former member wishing access to information about his/her record should contact the Corporation for National and Community Services, Attn: Alumni Coordinator, 1201 New York Avenue, NW, Washington, DC 20525.

CONTESTING RECORDS PROCEDURES:

Any former member wishing to amend information maintained in his/her electronic record may do so by addressing such request to the Corporation for National and Community Service, Office of the General Counsel, Attn: Corporation Privacy Act Officer, 1201 New York Avenue, NW, Washington, DC 20525.

RECORD SOURCE CATEGORIES:

The data is obtained from the member's application, status change, and payroll change notices.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION—4**SYSTEM NAME:**

AmeriCorps Full-time Member Personnel Files.

SYSTEM LOCATION:

All Corporation State Offices, AmeriCorps*Leaders Office at Corporation Headquarters, and NCCC Regional Campuses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active AmeriCorps members assigned under programs operated by the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained contain member application and reference forms, member status and payroll information, member travel vouchers, future plans

forms, including evaluation of service, and general correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended.

PURPOSE(S):

This system of records was established to maintain information on AmeriCorps while they are assigned to their respective programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The content of these records may be disclosed to the member's sponsor (VISTA) and other Corporation officials concerning placement, performance, support and related matters for AmeriCorps members. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are retrievable alphabetically by last name.

SAFEGUARDS:

Records in the system are available only to appropriate Corporation staff in State Offices, the AmeriCorps*Leaders Office at Corporation Headquarters, and Regional NCCC Campuses, and other appropriate officials of the Corporation with need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are retained for one (1) year after the member has terminated and then retired to the Federal Records Center where they are maintained for six (6) years.

SYSTEM MANAGER(S) AND ADDRESS:

The System Manager for VISTAs is the State Program Director in each Corporation State Office; the Regional NCCC Campus Director at each Campus location; and the Director, AmeriCorps*Leaders at Corporation Headquarters.

NOTIFICATION PROCEDURE:

Members wishing to determine if this system contains their records should contact the Corporation State Office (VISTAs) for the state where the

member performed their service; NCCC Campus where the member was assigned, and the AmeriCorps*Leaders Office at Corporation Headquarters.

RECORD ACCESS PROCEDURES:

Members wishing access to information about their records should contact the particular Corporation State Office, NCCC Regional Campus where the member was assigned or performed their service, and the AmeriCorps*Leaders Office at Corporation Headquarters, and provide name, social security number, and dates and location of where the member performed their service.

CONTESTING RECORD PROCEDURES:

A member wishing to amend his or her record may do so by addressing a request to the Corporation for National and Community Service, Office of the General Counsel, Attn: Corporation Privacy Act Officer, 1201 New York Avenue, NW, Washington, DC 20525.

RECORD SOURCES CATEGORIES:

The data is supplied by the member or through forms signed and executed by the member, or by Corporation personnel.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-5

SYSTEM NAME:

Employee and Applicant Records Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees; applicants; any individual involved in a grievance or grievance appeal or who has filed a complaint with the Department of Labor, Federal Labor Relations Council, Federal Mediation and Conciliation Service, or similar organization; and individuals considered for access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The Staff Security Files contain investigative information regarding an individual's character, conduct, behavior in the community where he or she lives; loyalty to the U.S. Government; arrest and convictions for any violations against the law; reports or interviews with former supervisors, coworkers, associates, educators, etc.,

about qualifications of an individual for a specific position; reports of inquiries with law enforcement agencies, former employers, educational institutions attended; and other similar information developed from the above.

(2) The Grievance, Appeal and Arbitration Files contain copies of petitions, complaints, charges, responses, rebuttals, evidentiary materials, briefs, affidavits, statements, records of hearings and decisions or findings of fact with respect thereto and incidental correspondence regarding complaints and appeals with respect to grievances and arbitration matters.

(3) The Employees Indebtedness Files contain records which are primarily correspondence regarding alleged indebtedness of Corporation employees, including employees' responses, the Corporation's response to the employee and/or creditor and administrative correspondence and records relating to agency assistance to the employee in resolving the indebtedness, if appropriate.

(4) The Employee Reemployment and Repromotion Priority Consideration Files list a person's name and the positions he or she was considered for, dates of consideration and a copy of the individual's latest Standard Form 171 and performance evaluation.

(5) The Performance Evaluation File consists of the annual evaluations of employee performance prepared by supervisors and reviewed by supervisory reviewing officials, together with comments, if any by the employee evaluated.

(6) The Management-Union Records System consists of automated data printouts showing an employee's name, grade, series, title, organizational entity and other data which determine inclusion or exclusion from the bargaining unit under the existing union contract. The record also contains a printout showing the amount of dues withheld from each employee who has authorized such withholding, and other related data.

(7) The Human Resources Management Information System is a computer based record which includes data relating to tenure, benefits eligibility, awards, etc., and other data needed by the Office of Human Resources and Corporation managers.

(8) The Personnel History Program contains a record of personnel actions made during employment, forwarding address, reason for leaving, social security number, date of birth, tenure, information regarding date and reason for termination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; provisions of the Federal Personnel Manual; Executive Orders concerning management relations with employee organizations; Executive Order 10450; and various acts of Congress relating to personnel investigations authorizing the same by the Office of Personnel Management whose responsibility can, under Civil Service regulations and law, be delegated in whole or in part to agencies.

PURPOSE(S):

To provide an information system which documents and supports the Corporation's personnel management process including those categories listed above.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

As indicated below, the subsystems incorporate all or some of the published routine uses.

(1) Staff Security Files—in addition to our general routine uses may be disclosed to the Office of Personnel Management as part of the central personnel investigation records system.

(2) Grievance, Appeal and Arbitration Records and Files—in addition to our general routine uses may be disclosed and used: (a) To OPM; the Merit System Protection Board; and the Office of Special Counsel, Merit System Protection Board, on request in conjunction with any appeal or in conjunction with its official duties with regard to personnel matters and investigations regarding complaints of Federal employees and applicants; and (b) To designated hearing examiners, arbitrators and third-party appellate authorities involved in the hearing or appeal procedures.

(3) Employees Indebtedness Records and Files—may be released under our routine uses numbers 1, 2, and 3 except that under routine use number 1, records may be released only to an appropriate Federal agency and the records may also be referred to a court of law or any administrative board of hearing on matters related to probation and parole.

(4) Employee Reemployment and Repromotion Priority Consideration Records and Files—in addition to our general routine uses may be disclosed to: (a) OPM as part of the OPM personnel management evaluation system; and (b) to OPM for information concerning reemployment and repromotion rights.

(5) Performance Evaluation Files—in addition to our general routine uses may be disclosed to OPM in connection with any request for information or inquiry as to Federal personnel regulation.

(6) Management Union Records—in addition to the general routine uses may be disclosed to and used for: (a) The Corporation employees union for maintenance of its dues and inclusion in the bargaining unit; (b) the Treasury Department for preparation of payroll checks with appropriate withholding of dues; and (c) OPM for reports of management/labor relations.

(7) Human Resources Management Information System—used by Corporation officials for day-to-day work information; statistical reports without personal identifiers and for in-house reports relating to management. Information contained in this record is reflected in the individual's official personnel folder.

(8) Personnel History Program—is used by the Human Resources staff to verify service and for day-to-day information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in file folders, floppy disks, lists or loose-leaf binders, and are stored in metal file cabinets with a lock or in secured rooms with access limited to those employees whose duties require access. Where data is obtained via computer, controlled access is maintained through computer security control procedures.

RETRIEVABILITY:

Records are indexed by name, social security number or employee number.

SAFEGUARDS:

Records are generally available to Corporation employees having a need for such records in the performance of their duties. Generally, the Security Files are available only to office heads or security personnel.

RETENTION AND DISPOSAL:

After termination, death or retirement or consideration of an applicant, the Staff Security Files are kept in the security office three (3) years and then retired to a Federal Records Center for twenty-seven (27) years and then destroyed. The Grievances, Appeals and Arbitration Files are retained indefinitely in Human Resources. The Employee Indebtedness Files are destroyed on a bi-annual basis or when the problem is resolved. The Employee Reemployment and Repromotion

Priority Consideration Files are retained according to length of reemployment or repromotion eligibility. The Performance Evaluation Files are retained one year or until superseded. The Human Resources Management Information System records and the Personnel Program data are kept indefinitely in the Office of Human Resources. The Management-Union Lists are retained until superseded by a corrected or updated list.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Notification paragraph in the Preliminary Statement.

CONTESTING RECORD SOURCE CATEGORIES:

Same as "Record Access Procedures".

RECORD SOURCE CATEGORIES:

From the individual; the official personnel folder; statistical and other information developed by Human Resource staff, such as enter on duty date and within grade increase due dates; agency supervisors and reviewing officials; individual employee fiscal and payroll records; alleged creditors of employees; witnesses to occurrences giving rise to a grievance, appeal or other action; hearing records and affidavits and other documents used or usable in connection with grievance, appeal and arbitration hearings. Information contained in the Staff Security files is obtained from: (a) Applications and other personnel and security forms furnished by the individual; (b) investigative material furnished by other Federal agencies; (c) personal investigation or written inquiry from associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, and other sources as may be developed from the above; and (d) the individual.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-6**SYSTEM NAME:**

Employee/Member Occupational Injury/Illness Reports and Claim Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201

New York Avenue, NW, Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation staff and full-time volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of work related injuries and illnesses and claims for workers' compensation submitted to Department of Labor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Employees Compensation Act & Occupational Safety and Health Administration Act.

PURPOSE(S):

To maintain injury/illness reports data and to track workers' compensation claims on behalf of Corporation staff and full-time members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine annual work related injury/illness data re: Corporation staff, and to identify trends if possible. To prepare and submit workers' compensation claims. Also, generally, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are maintained by name in alphabetical sequence.

SAFEGUARDS:

Records are available only to claimants and Corporation staff who demonstrate a need to know.

RETENTION AND DISPOSAL:

Official files are kept seven (7) years following year of occurrence. Disposal of records is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

OWCP Liaison Officer, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

NOTIFICATION PROCEDURE:

Claimant writes request for data to the address listed above.

RECORD ACCESS PROCEDURES:

Requester should give OWCP claim number, but it is not mandatory. Data

requests may be requested in the name of injured employee/volunteer.

CONTESTING RECORD PROCEDURES:

Claimant or injured employee/member may submit any data deemed relevant to the case to address listed.

RECORD SOURCE CATEGORIES:

Individual who suffers work related injury/illness submits any pertinent data necessary; medical reports, witness statements, time and attendance records, medical bills, legal briefs.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-7

SYSTEM NAME:

Travel Files.

SYSTEM LOCATION:

Office of Administrative and Management Services, Travel Unit, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Corporation Staff, Consultants, Invitational Travelers, and Relocated Staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' records and special event records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National Community Service Act of 1990, as amended.

PURPOSE(S):

To maintain travel files on all persons traveling on official Corporation business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in individual folders in a locked metal file cabinet when not in immediate use.

RETRIEVABILITY:

Individual's name in alphabetical order and Travel Authorization number.

SAFEGUARDS:

Access only to appropriate personnel and Corporation officials. The metal

travel file cabinet is locked when not in use.

RETENTION AND DISPOSAL:

Retention three (3) years. Disposal of records is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Travel Analyst, Office of Administrative and Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

Send to address listed.

RECORD ACCESS PROCEDURES:

Travel Analyst, Office of Administrative and Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CONTESTING RECORD PROCEDURES:

Send to address listed.

RECORD SOURCE CATEGORIES:

Submitted by Corporation employees etc.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-8

SYSTEM NAME:

AmeriCorps Member Individual Accounts.

SYSTEM LOCATION:

Corporation for National and Community Service, National Service Trust Operations, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has served or is serving as a member or other full-time, stipended member under a Corporation program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained contain information extracted from the application, information about the period of service, and information about the member's service history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National and Community Service Act of 1990, as amended.

PURPOSE(S):

The system of records was established to maintain service histories on all current and former and other full-time stipend volunteers serving in the Corporation programs and earning an education award.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are stored on magnetic tape, disks, electronic image, hard copy, and are kept in a locked room when not in use.

RETRIEVABILITY:

Records are retrieved by social security number.

SAFEGUARDS:

The material on tapes and disks is generally available only to the Corporation's OIT and Accounting staff, and is so coded as to be unavailable to anyone else. Hard copy records are available only to Corporation staff with a need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

These records are maintained for a period of (7) seven years from date the volunteer earns an education award and then forwarded to the Federal Records Center for (3) three years. Electronically imaged documents will be maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Service Trust Operations, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

Persons wishing to determine if this system contains their records should contact the Corporation for National and Community Service, Director, National Service Trust Operations, 1201 New York Avenue, NW., Washington, DC 20525, and provide name, social security number, and dates of volunteer service.

RECORDS ACCESS PROCEDURES

Persons wishing access to information about their records should contact the Corporation for National and Community Services, Director, National Service Trust Operations, 1201 New York Avenue, NW., Washington, DC 20525.

CONTESTING RECORD PROCEDURES:

A person wishing to amend his or her record may do so by addressing such request to the Corporation for National and Community Service, Office of the

General Counsel, Attn: Corporation Privacy Act Officer, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD SOURCE CATEGORIES:

The data is obtained from enrollment and exit forms.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-9**SYSTEM NAME:**

Counselors' Report Files.

SYSTEM LOCATION:

Equal Opportunity Office, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee or applicant for employment, service member, or applicant or trainee for volunteer or service status, or employee of a grantee who has contacted or requested a Corporation Equal Opportunity Counselor for counseling but has not filed a formal discrimination complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Counselors' Reports, Privacy Act notice, confidentiality agreement, notice to members of collective bargaining agreement, notice of final interview, notes and correspondence, and copies of personnel records or other documents relevant to the matter presented to the Counselor, and any other records relating to the counseling instance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles VI and VII of the Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act, as amended; Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; Domestic Volunteer Service Act of 1973, as amended; National and Community Service Act of 1990, as amended; and the Age Discrimination Act, as amended.

PURPOSE(S):

To enable Equal Opportunity Counselors to look into matters brought to their attention, provide counseling, attempt to resolve the matter, and document actions taken.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. Referral or disclosure: (a) To a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing the statute,

rule, regulation, or order; (b) to an investigator, Counselor, grantee or other recipient of Federal financial assistance, or hearing officer or arbitrator charged with the above responsibilities; (c) any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (d) such other referrals as may be necessary to carry out the enforcement and implementation of the statutes, rules, regulations, or orders.

2. Disclosure to the Congressional committees having legislative jurisdiction over the program involved, including when actions are proposed to be undertaken by suspending or terminating or refusing to grant or to continue Federal financial assistance for violation of the statutes, rules, regulations, or orders for recipients of Federal financial assistance from the Corporation.

3. Disclosure to any source, either private or governmental, to the extent necessary to secure from source information relevant to, and sought in furtherance of, a legitimate investigation or EO counseling matter.

4. Disclosure to a contractor, grantee or other recipient of Federal financial assistance, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

5. Disclosure to any party pursuant to the receipt of a valid subpoena.

6. Disclosure during the course of presenting evidence to a court magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosure to opposing counsel in the course of settlement negotiations.

7. Disclosure to a member of Congress submitting a request involving an individual who is a constituent of such member who has requested assistance from the member with respect to the subject matter of the record.

8. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

9. Information in any system of records to be disclosed to a

Congressional office, in response to an inquiry from any such office, made at the request of the individual to whom the record pertains.

10. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration, in records management inspection conducted under authority of 44 U.S.C. 209 and 290.

11. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual seeking to be licensed.

12. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data.

13. Disclosure to the Department of Justice in order to obtain the Department's advice regarding Corporation's disclosure obligations under the Freedom of Information Act.

14. Disclosure of the Office of Management and Budget (OMB) or the Equal Employment Opportunity Commission (EEOC) in order to obtain OMB's advice regarding Corporation's obligations under the Privacy Act.

Note: The Agency-wide statement of general routine uses does not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in folders or computer diskettes and locked in metal file cabinets when not in immediate use.

RETRIEVABILITY:

Retrievability is by the name of the person who contacted the Counselor.

SAFEGUARDS:

Records in the system are available only to appropriate personnel in the Office of Equal Opportunity and other designated officials of the Corporation with a need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Two (2) years after completion of counseling, the files are destroyed.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Equal Opportunity, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

NOTIFICATION PROCEDURE:

Request by individuals on whether a record is maintained about himself or

herself should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access to these records should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

Contest to information included in these records should be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from the following categories of sources: (1) Aggrieved persons, witnesses, etc., in counseling matters; (2) Counselors' Reports; (3) Copies of documents relevant to any counseling matter; and (4) Correspondence.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-10

SYSTEM NAME:

Discrimination Complaint Files.

SYSTEM LOCATION:

Equal Opportunity Office, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee or applicant for employment, AmeriCorps member or applicant or trainee for volunteer or service status, or employee of a grantee, or program beneficiary who has filed a formal complaint with or against the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal complaints, Reports of Investigation, Counseling documents, case decisions, and relevant correspondence, including settlement agreements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles VI and VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act, as amended; the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; the Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; and the Age Discrimination Act, as amended.

PURPOSE(S):

To enable the Corporation to investigate and adjudicate complaints of discrimination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Referral or disclosure: (a) To a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing the statute, rule, regulation, or order; (b) to an investigator, counselor, grantee or other recipient of Federal financial assistance or hearing officer or arbitrator charged with the above responsibilities; (c) any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (d) such other referrals as may be necessary to carry out the enforcement and implementation of the statutes, rules, regulations, or orders.

2. Disclosure to the Congressional committees having legislative oversight over the program involved, including when actions are proposed to be undertaken by suspending or terminating or refusing to grant or to continue Federal financial assistance for violation of the statutes, rules, regulations, or orders for recipients of Federal financial assistance from the Corporation.

3. Disclosure to any source, either private or governmental, to the extent necessary to secure from source information relevant to, and sought in furtherance of, a legitimate investigation or EO counseling matter.

4. Disclosure to a contractor, grantee or other recipient of Federal financial assistance, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

5. Disclosure to any party pursuant to the receipt of a valid subpoena.

6. Disclosure during the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosures to opposing counsel in the course settlement negotiations.

7. Disclosure to a member of Congress submitting a request involving an individual who has requested assistance from the member with respect to the subject matter of the record.

8. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to

respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

9. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration, in records management inspections conducted under authority of 44 U.S.C. 2094 and 2906.

10. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual seeking to be licensed.

11. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data.

12. Disclosure to the Department of Justice in order to obtain the Department's advice regarding the Corporation's disclosure obligations under the Freedom of Information Act.

13. Disclosure to the Office of Management and Budget (OMB) or the Equal Employment Opportunity Commission (EEOC) in order to obtain OMB's advice regarding the Corporation's obligations under the Privacy Act.

Note: The Agency-wide statement of general routine uses does not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in folders or on computer diskettes which are locked in metal file cabinets when not in immediate use.

RETRIEVABILITY:

Files are retrieved by the complainant's name.

SAFEGUARDS:

Records in the system of records are available only to appropriate personnel in Equal Opportunity and other designated officials of the Corporation with a need of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed four (4) years after the close of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Opportunity, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

Request by individuals on whether a record is maintained about himself or herself should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access to these records should be sent to the System Manager.

CONTESTING RECORD PROCEDURES:

Contest of information included in these records should be sent to the System Manger.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from the following categories of sources: (1) Complainants, witnesses, etc., in discrimination complaints; (2) Reports of investigations and Counselors' Reports; (3) Copies of documents relevant to any EO investigation; (4) Records of hearings on complaint; and (5) Correspondence.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-11

SYSTEM NAME:

Employee Pay and Leave Record Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel actions; employing, promoting and terminating employees; savings bond applications; advises of allotments; IRS tax withholdings, applications, and records regarding collections for overpayments; and time and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual; 31 U.S.C. 66(a); and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To provide a system whereby Corporation employees can track payroll and leave information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records is routinely provided: (1) To the U.S.

Department of Treasury for payroll and savings bonds and other deduction purposes; (2) to the Internal Revenue Service with regard to tax deductions; and (3) to participating insurance companies holding policies with respect to employees of the Corporation. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets. The individual Time and Attendance records maintained by designated timekeepers throughout the agency are also stored in locked metal file cabinets.

RETRIEVABILITY:

Records are by name in alphabetical order.

SAFEGUARDS:

Records in the system are available only to employees of the Corporation with a need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records in the system are maintained for three (3) years after the end of the fiscal year in which an employee terminates employment with the Corporation and then retired to the nearest Federal Records Center in accordance with General Accounting Office instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Payroll Supervisor, Corporation for National and Community Service, Human Resources, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

CONTESTING RECORD PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

RECORD SOURCE CATEGORIES:

Corporation employee to whom the record pertains.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-12

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Files.

SYSTEM LOCATION:

Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have submitted Freedom of Information Act and/or Privacy Act requests to the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal requests (FOIA/PA), research data, written decisions, and relevant correspondence, including final responses to the requesters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Freedom of Information Act of 1966, as amended, and the Privacy Act of 1974, as amended.

PURPOSE(S):

To maintain files of FOIA/Privacy Act requests and the Corporation's responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in file folders which are stored in locked metal file cabinets. Computerized files are maintained on the Corporation FOIA/PA Officer's computer.

RETRIEVABILITY:

Records are indexed by number and by year.

SAFEGUARDS:

Records in the system are available only to the Corporation FOIA/Privacy Act Officer or those officials authorized by the General Counsel with a need of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records concerning requests and appeals are destroyed three (3) years after initial request.

SYSTEM MANAGER(S) AND ADDRESSES:

Corporation FOIA/Privacy Act Officer, Corporation for National and Community Service, Office of the General Counsel, 1201 New York Avenue, NW, Washington, DC 20525.

NOTIFICATION PROCEDURE:

See Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See Access and Consent paragraph in the Preliminary Statement.

CONTESTING RECORD PROCEDURES:

See Access and Contest paragraph in the Preliminary Statement.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals engaging in official FOIA/Privacy Act requests as well as from responses issued by officials of the Corporation.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-13**SYSTEM NAME:**

Legal Office Litigation/Correspondence Files.

SYSTEM LOCATION:

Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in litigation which requires General Counsel action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements; affidavits/declarations; investigatory and administrative reports; personnel, financial, medical and business records; discovery and discovery responses; motions; orders, rulings; letters; messages; forms; reports; surveys; audits; summons; English translations of foreign documents; photographs; legal opinions; subpoenas; pleadings; memos; related correspondence; briefs; petitions; court records involving litigation; and related matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained under general authority of the Office of the General Counsel to represent the Corporation in connection with its dealings with its employees, and the general functions of the Office of the General Counsel to provide advice and counsel to the Chief Executive Officer of the Corporation and his or her staff.

PURPOSE(S):

To maintain files relating to litigation matters involving the Corporation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To prepare correspondence and materials for litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in file folders which are stored in locked metal file cabinets. Computerized files are maintained on employee computers.

RETRIEVABILITY:

Name of individual and the year litigation commenced.

SAFEGUARDS:

Records are available only to employees assigned to the General Counsel Office or those officials authorized by the General Counsel with a need of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records will be maintained in the Office of the General Counsel for one (1) year after case closure. Records will then be sent to the Federal Records Center where they will be destroyed after ten (10) years.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

NOTIFICATION PROCEDURE:

Employees wishing to determine if this system contains records relating to them should contact the Corporation for National and Community Service, General Counsel Office, 1201 New York Avenue, NW, Washington, DC 20525.

RECORD ACCESS PROCEDURES:

Litigation files are not subject to access. Other files may be accessed in accordance with agency-wide regulations.

CONTESTING RECORD PROCEDURES:

Contest of information included in these records should be sent to the System Manager.

RECORD SOURCE CATEGORIES:

Data is obtained from the following categories of sources: (1) Corporation employees; (2) Correspondence and reports from persons and agencies dealing with the agency and its employees; (3) Work product and research by lawyers of the office; and (4) Court records.

EXEMPTION CLAIMED FOR THE SYSTEM:

Any information compiled in reasonable anticipation of a civil action or proceeding. 5 U.S.C. 552a(d)(5).

CORPORATION-14**SYSTEM NAME:**

Merit Promotion Plan Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

These files contain copies of applications for employment (SF-612 or resumes) submitted by applicants and other background information regarding qualifications of the applicant for positions in the Corporation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National Community Service Act of 1990, as amended.

PURPOSE(S):

To provide documentation necessary to support the Corporation's merit selection process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these records and files may be disclosed and used as follows: (1) To Human Resources with regard to any question of eligibility, suitability or qualifications of an applicant for employment; and (2) to any source which requests information in the course of an inquiry as to the qualifications of an applicant to the extent necessary to identify the individual, inform the source of the nature and purpose of the inquiry, and to identify the type of information requested. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed in order of vacancy announcement number.

SAFEGUARDS:

Records are generally available only to Corporation employees with the need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed when applications are two (2) years old. Applications which resulted in appointment are filed in the Official Personnel Folder and are subsequently retired to the Federal Records Center, St. Louis, Missouri.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

CONTESTING RECORD CATEGORIES:

Same as Record Access Procedures category.

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from the following categories of sources: Applications and other personnel forms furnished by the individual; oral or written inquiries from sources disclosed by the applicant, such as, employers, schools, references, etc.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-15**SYSTEM NAME:**

Office of the Inspector General Investigative Files.

SYSTEM LOCATION:

Office of the Inspector General, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects, complainants, and witnesses of investigations, complaints, or other matters, including (but not necessarily limited to) former and present Corporation employees; former and present Corporation grant recipients, applicants, consultants, contractors and subcontractors and their employees; and other parties doing business or proposing to conduct business with the Corporation or its recipients, contractors and subcontractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

All correspondence relevant to the investigation; all internal staff memoranda; information provided by subjects, witnesses, and governmental

investigatory or law enforcement organizations; copies of all subpoenas issued during the investigation; affidavits, statements from witnesses, memoranda of interviews, transcripts of testimony taken in the investigation and accompanying exhibits; documents and records or copies obtained during the investigation; working papers of the staff, investigative notes, and other documents and records relating to the investigation; information about criminal, civil, or administrative referrals; and opening reports, progress reports, and closing reports, with recommendations for corrective action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended, 5 U.S.C. app. 3.

PURPOSE(S):

To maintain files of investigative and reporting activities carried out by the Office of the Inspector General.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Referral to Federal, state, local and foreign investigative or prospective authorities. A record in the system of records, which indicates either by itself or in combination with other information within the Corporation's possession, a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed, as a routine use, to the appropriate Federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.
2. Disclosure to a Federal or state grand jury agent pursuant to a Federal or state grand jury subpoena or prosecution request that such record be released for the purpose of its introduction to a grand jury.
3. Referral to suspension/debarment authorities, internal to the Corporation, when the record released is germane to a determination of the propriety of, or necessity for, a suspension or debarment action.
4. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational

qualifications of an individual holding a license or seeking to be licensed.

5. Disclosure to a contractor, grantee, or subgrantee or other recipient of Federal funds, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interest.

6. Disclosure to a contractor, grantee, or subgrantee or other recipient of Federal funds, when the recipient has incurred an indebtedness to the Government through its receipt of Government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

7. Disclosure to any source, either private or governmental, to the extent necessary to secure from such source information relevant to, and sought in furtherance of, a legitimate investigation or audit.

8. Disclosure to a domestic, foreign or international governmental agency considering personnel or other internal actions, such as assignment, hiring, promotion, or retention of an individual, issuance of a security clearance, reporting an investigation of an individual, award or other benefit, to the extent that the information is relevant to such agency's decision on the matter.

9. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data, or the mission of the OIG.

10. Disclosure to a Board of Contract Appeals, the General Accounting Office or other tribunal hearing a bid protest involving a Corporation or OIG procurement.

11. Disclosure to a domestic, foreign or international government law enforcement agency maintaining civil, criminal or other relevant enforcement information, or other pertinent information, in order that the OIG may obtain information relevant to a decision concerning the assignment, hiring, promotion, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

12. Disclosure to the Department of Justice in order to obtain the Department's advice regarding OIG's obligations under the Freedom of Information Act.

13. Disclosure to the Office of Management and Budget (OMB) in order to obtain OMB's advice regarding OIG's obligations under the Privacy Act.

14. Disclosure to a member of Congress making a request at the behest of a party protected under the Privacy Act, when the member of Congress informs the appropriate official that the individual to whom the record pertains has authorized the member of Congress to have access.

15. Disclosure to any Federal agency pursuant to the receipt of a valid subpoena.

16. Disclosure to the U.S. Department of the Treasury or the U.S. Department of Justice when the Corporation or the OIG is seeking to obtain taxpayer information from the Internal Revenue Service.

17. Disclosure to debt collection contractors for the purpose of collecting delinquent debts as authorized by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3713).

18. Disclosure to a "consumer reporting agency" as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)), in order to obtain information in the course of an investigation or audit.

19. Disclosure to Corporation or OIG counsel, an administrative hearing tribunal, or counsel to the adverse party, in Program Fraud Civil Remedies Act or other litigation.

20. Disclosure to a Federal, State, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit or other programs, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to those agencies and their components.

21. Disclosure to any court, magistrate or administrative authority during the course of any litigation or settlement negotiations in which the Corporation is a party or has an interest. A record in the system of records may be disclosed in a proceeding before a court or adjudicative body before which the Corporation or the OIG is authorized to appear, or in the course of settlement negotiations involving—

(1) OIG, the Corporation, or any component thereof;

(2) Any employee of the OIG or the Corporation in his or her official capacity;

(3) Any employee of the Corporation in his or her individual capacity, where the Government has agreed to represent the employee; or

(4) The United States, where the OIG determines that the litigation is likely to affect the OIG or the Corporation or any of its components.

22. Disclosure to OIG's or the Corporation's legal representative, including the U.S. Department of Justice and other outside legal counsel, when the OIG or the Corporation is a party in actual or anticipated litigation or has an interest in such litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Office of the Inspector General Investigative Files consist of paper records maintained in folders and an automated data base maintained on computer diskettes. The folders and diskettes are stored in locked metal file cabinets. The file cabinets are located in the Office of the Inspector General.

RETRIEVABILITY:

The records are retrieved by a unique control number assigned to each investigation.

SAFEGUARD:

Records in the system are available only to those persons whose duties require such access. The records are kept in limited access areas during duty hours and in locked file cabinets in a locked office at all other times.

RETENTION AND DISPOSAL:

Records will be held in the office pursuant to General Records Schedule 22, June 1988, and will be destroyed by shredding or burning when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Office of the Inspector General, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether this system of records contains a record pertaining to the requesting individual, the individual should write to the System Manager furnishing his or her name, address, telephone number, and social security number.

RECORD ACCESS PROCEDURES:

See Notification Procedures.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in this system of records should write to the System Manager, setting forth the basis for which the individual believes the record is incomplete, irrelevant, incorrect or untimely.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from: Corporation staff and official Corporation records; current and former employees, contractors, grantees and their employees; subgrantees and their employees; AmeriCorps members or former members in Corporation-funded programs; and non-Corporation persons. Individuals to be interviewed and records to be examined are selected based on the nature of the allegations being investigated.

EXEMPTION CLAIMED FOR THE SYSTEM:

The Office of Inspector General published exemptions under 5 U.S.C. 552a(j) and (k).

CORPORATION—16**SYSTEM NAME:**

Travel Authorization Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation employees or any other person invited to travel at the expense of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of travel authorizations, vouchers, receipts, payment records, and other materials related to official travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To record and manage the payment of expenses for official travel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in file folders which are stored in locked metal file cabinets. records are indexed alphabetically by name.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services, and other appropriate Corporation officials with the need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals engaging in official travel as well as documents issued by the Corporation officials involved with authorizing and managing travel.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION—17**SYSTEM NAME:**

Momentum Financials Vendor Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals with whom the Corporation does business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data recorded includes the name and address of the entity doing business with the Corporation, ABA routing

number, financial institution name and address, depositor account number and the taxpayer identification number; *e.g.*, the SSN of an individual and the TIN of an organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To maintain a single registry of entities with which the agency does business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data is shared with the Department of Health and Human Services in the servicing of Corporation grant recipients; data may be disclosed to the U.S. Department of Justice, the U.S. Department of Treasury or the General Accounting Office in connection with debt servicing activities or to the Internal Revenue Service in the reporting of disbursements as required by the Internal Revenue Code. Also, *see* General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Data is stored on magnetic media in a computer system with access controlled by a security system that requires passwords and identification of each user.

RETRIEVABILITY:

Data can be retrieved from the system electronically by name or TIN.

SAFEGUARDS:

Access to data stored on magnetic media is controlled by a security system that requires password and identification of each user.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system of records about an

individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by the Corporation officials involved with managing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION—18**SYSTEM NAME:**

AmeriCorps*VISTA Volunteer Management System Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, AmeriCorps*VISTA Payroll Office, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former AmeriCorps*VISTA members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, address, social security number, data concerning the individual's sex, marital status, skills, service as an AmeriCorps*VISTA member, including dates served and projects served, amounts paid to the member while serving, amounts overpaid, and repayment records of such overpayment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service of 1973, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To record payments and allowances to AmeriCorps*VISTA members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Information is also disclosed to the Social Security

Administration and the Internal Revenue Service about the funds paid to comply with legal requirements that enable these agencies to perform their functions. Data from the system is also disclosed to the Financial Management Service of the U.S. Department of the Treasury to enable payments to be made.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Manual data is stored alphabetically in locked filing cabinets that are kept in a room that is only used for storing such materials. That room is kept locked except when employees who work with the AmeriCorps*VISTA member payroll system are using the data. Access by all other individuals is not allowed. Data is also stored on magnetic media in a computer system with access controlled by a security system that requires passwords and identification of each user.

RETRIEVABILITY:

Data can be retrieved by individual name for manual records or by social security number for automated records.

SAFEGUARDS:

The storage room is kept locked except when employees who work with the AmeriCorps*VISTA member payroll system are using the data. Access by all other individuals is not allowed. Access to data stored on magnetic media is controlled by a security system that requires passwords and identification of each user.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system of records about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedure.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system

should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

Dated: July 25, 2000.

Thomaseia P. Duncan,

General Counsel.

[FR Doc. 00-19390 Filed 7-31-00; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE**Uniformed Services University of the Health Sciences****Sunshine Act Meeting****AGENCY HOLDING THE MEETING:**

Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 4 p.m., September 8, 2000.

PLACE: The United States Air Force Academy, Colorado Springs, Colorado.

STATUS: Open—under “Government in the Sunshine Act” (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—May 19, 2000

(2) Faculty Matters

(3) Departmental Reports

(4) Financial Report

(5) Report—President, USUHS

(6) Report—Dean, School of Medicine

(7) Report—Dean, Graduate School of Nursing

(8) Comments—Chairman, Board of Regents

(9) New Business

CONTACT PERSON FOR MORE INFORMATION:

Mr. Bobby D. Anderson, Executive Secretary, Board of Regents, (301) 295-3116.

Dated: July 26, 2000.

C.M. Robinson,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00-19437 Filed 7-27-00; 4:35 pm]

BILLING CODE 5001-10-M

DEPARTMENT OF EDUCATION**National Committee on Foreign Medical Education and Accreditation; Meeting**

AGENCY: National Committee on Foreign Medical Education and Accreditation, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to announce the upcoming meeting of the National Committee on Foreign Medical Education and Accreditation. Parts of this meeting will be open to the public, and the public is invited to attend those portions.

When and Where Will the Meeting Take Place?

We will hold the meeting on September 15, 2000 beginning at 9:00 a.m. at the U.S. Department of Education, in the 8th Floor Conference Center, 1990 K Street, N.W., Washington, D.C. 20006.

What Access Does the Conference Center Provide for Individuals With Disabilities?

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

What Are the Functions of the Committee?

The National Committee on Foreign Medical Education and Accreditation was established by the Secretary of Education under section 102 of the Higher Education Act of 1965, as amended by Public Law 105-244. The Committee's responsibilities are to (1) evaluate the standards of accreditation applied to applicant foreign medical schools; and (2) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

What Are the Issues To Be Considered At This Meeting?

The National Committee on Foreign Medical Education and Accreditation will review the standards of accreditation applied to medical schools by several foreign countries to determine whether those standards are

comparable to the standards of accreditation applied to medical schools in the United States. Discussions of the standards of accreditation will be held in sessions open to the public. Discussions that focus on specific determinations of comparability are closed to the public in order that each country may be properly notified of the decision. Beginning August 18, you may call to obtain the identity of the countries whose standards are to be evaluated during this meeting.

Who Is the Contact Person for the Meeting?

Please contact Bonnie LeBold, who is the Executive Director of the National Committee on Foreign Medical Education and Accreditation, if you have questions about the meeting. You may contact her at the U.S. Department of Education, 7th Floor—Rm. 7007, 1990 K St. N.W., Washington, D.C. 20006, telephone: (202) 219-7009, fax: (202) 219-7008, e-mail: Bonnie_LeBold@ed.gov. Individuals who use telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339.

A. Lee Fritschler,
Assistant Secretary for Postsecondary Education.

[FR Doc. 00-19338 Filed 7-31-00; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY**Agency Information Collection Under Review by the Office of Management and Budget**

AGENCY: Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted renewals for an additional three years for the information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under sections 3507(h)(1) and 3506(c) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

Each entry contains the following information: (1) The collection number and title; (2) a summary of the collection of information, type of request (new, revision, extension, or reinstatement), response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting burden (*i.e.*, the estimated

number of likely respondents times the proposed frequency of response per year times the average hours per response).

DATES: Comments must be filed on or before October 2, 2000. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The OMB DOE Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the DOE contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503. (Comments should also be addressed to the Office of Information, Records and Resource Management at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Peter J. Grahn, Jr., Office of Information, Records and Resource Management (SO-31), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585-0670. Mr. Grahn may be contacted by telephone at (301) 903-4653, FAX at (301) 903-6223, or e-mail at Peter.Grahn@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

The information collections submitted to OMB for review were:

1. *Current OMB No.:* 1910-0400.
Package Title: Financial Assistance.
Summary: A three-year extension is requested, which includes both mandatory and response to obtain or retain benefits. *Purpose:* This information is required by the Department to manage all phases of the process of awarding, administering and closing out financial assistance awards. The package contains 58 information and/or recordkeeping requirements. *Type of Respondents:* DOE management and operating contractors and offsite contractors. *Estimated Number of Responses:* 66,705. *Estimated Total Burden Hours:* 664,673.

2. *Current OMB No.:* 1910-1000.
Package Title: Personal Property.
Summary: A three-year extension is requested for these mandatory response obligations. *Purpose:* This provides the Department with the information necessary for the management, control, reutilization, and disposal of government personal property. The package contains 29 information and/or recordkeeping requirements. *Type of Respondents:* DOE management and operating contractors and offsite contractors. *Estimated Number of*

Responses: 3,857. Estimated Total Burden Hours: 247,374.

3. Current OMB No.: 1910-1800.

Package Title: Safeguards and Security. **Summary:** A three-year extension is requested for these mandatory response obligations. **Purpose:** This information is required by the Department for guard service contracts, security classified records, facility security, nuclear facility safety, and nuclear facility security. The package contains 27 information and/or recordkeeping requirements. **Type of Respondents:** DOE management and operating contractors and offsite contractors. **Estimated Number of Responses:** 86,596. **Estimated Total Burden Hours:** 612,985.

Statutory Authority: Sections 3507(h)(1) and 3506(c) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13).

Issued in Washington, D.C., July 20, 2000.

Peter J. Grahn, Jr.,

Director, Office of Records and Resource Management.

[FR Doc. 00-19354 Filed 7-31-00; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office—Sandia National Lab

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Kirtland Area Office—Sandia National Lab. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, August 16, 2000 5:30 p.m.—9 p.m. (MST)

ADDRESSES: Thomas Bell Community Center, 3001 University Boulevard, SE, Albuquerque, NM 87106, (505) 768-3499.

FOR FURTHER INFORMATION CONTACT:

Mike Zamorski, Acting Manager, Department of Energy, Kirtland Area Office, P.O. Box 5400, MS-0184, Albuquerque, NM 87185, Phone (505) 845-4094, Fax (505) 845-6867.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities. Tentative Agenda

5:30 pm—Check in/Minutes/Agenda

5:45—DOE Quarterly Meeting

6:15—Mixed Waste Landfill Proposed Recommendations from Ad Hoc Committee

7:15—Break

7:30—Public Comment Period

7:45—Transition into Long-Term Stewardship Community Resources Presentation (Questions and Answers)

8:30—Report of meeting with Congressional Delegation

8:40—Task Group Reports

8:50—End of Meeting

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing or calling Mike Zamorski, Acting Manager, Department of Energy, Kirtland Area Office, P.O. Box 5400, MS-0184, Albuquerque, NM 87185, or by calling (505) 845-4094.

Issued at Washington, DC on July 31, 2000.

Carol A. Kennedy,

Acting Advisory Committee Management Officer.

[FR Doc. 00-19353 Filed 7-31-00; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[Docket Nos. FE C&E 00-14; Certification Notice—188]

Office of Fossil Energy; Notice of Filing of Coal Capability of Freestone Power Generation, L.P. Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Filing.

SUMMARY: Freestone Power Generation, L.P. submitted coal capability self-

certifications pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G-039, FE-27, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell at (202) 586-9624

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of the proposed new baseload powerplant have filed a self-certification in accordance with section 201(d).

Owner: Freestone Power Generation, L.P. (C&E 00-14).

Operator: Freestone Power Generation, L.P.

Location: Fairfield, Texas.

Plant Configuration: Combined-cycle.

Capacity: 1,030 MW.

Fuel: Natural gas.

Purchasing Entities: Not yet determined.

In-Service Date: April 1, 2002.

Issued in Washington, D.C., July 25, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00-19355 Filed 7-31-00; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[Docket No. EA-168-B]

Application to Export Electric Energy; PG&E Energy Trading-Power, L.P.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: PG&E Energy Trading-Power, L.P. ("PGET-Power") has applied for renewal of its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before August 31, 2000.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-0350 (FAX 202-287-5736).

FOR FURTHER INFORMATION CONTACT: Rosalind Carter (Program Office) 202-586-7983 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On February 25, 1998, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized PGET-Power to transmit electric energy from the United States to Canada using the international transmission facilities of Detroit Edison, Minnesota Power, Niagara Mohawk and New York Power Authority. On August 25, 1998, in Order EA-168-A, DOE amended PGET-Power's electricity export authorization to add the remaining major transmission interconnections with Canada. That two year order will expire on August 25, 2000. On July 6, 2000, PGET-Power filed an application with FE for renewal of its export authority and requested that authorization be issued for two years.

PGET-Power, is a power marketer that does not own or control any electric generation or transmission facilities nor does it have any franchised electric service territory in the United States. PGET-Power will purchase the electric energy to be exported at wholesale from electric utilities and Federal Power Marketing Administrations in the United States.

PGET-Power proposes to arrange for the delivery of electric energy to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power

Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by PGET-Power, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the PGET-Power application to export electric energy to Canada should be clearly marked with Docket EA-168-B. Additional copies are to be filed directly with Sanford L. Hartman, Assistant General Counsel, PG&E Energy Trading-Power, L.P., 7500 Old Georgetown Road, Suite 1300, Bethesda, MD 20814-6161 and Ms. Sarah Barpoulis, Senior Vice President, PG&E Energy Trading-Power, L.P., 7500 Old Georgetown Road, Suite 1300, Bethesda, MD 20814-6161.

DOE notes that the circumstances described in this application are virtually identical to those for which export authority had previously been granted in FE Order EA-168. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA-168 proceeding.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at <http://www.fe.doe.gov>. Upon reaching the Fossil Energy Home page, select "Regulatory Programs," then "Electricity Regulation," and then "Pending Proceedings" from the options menus.

Issued in Washington, DC, on July 25, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00-19356 Filed 7-31-00; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-416-000]

Great Lakes Gas Transmission Limited Partnership; Notice of Tariff Filing

July 26, 2000.

Take notice that on July 21, 2000, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective August 1, 2000:

First Revised Sheet No. 39A
Seventh Revised Sheet No. 40
Third Revised Sheet No. 40B
Fifth Revised Sheet No. 41
Fourth Revised Sheet No. 45

Great Lakes states that these tariff sheets are being filed to comply with the Commission's Order Nos. 637 and 637-A issued on February 9, 2000 and May 19, 2000, respectively, in Docket Nos. RM98-10 and RM98-12, et al 90 FERC ¶ 61,109 (2000); 91 FERC ¶ 61,169 (2000). Among other things, Order Nos. 637 and 637-A waived the rate ceiling for short-term capacity release transactions and limited the availability of the Right of First Refusal to contracts at the maximum tariff rate having a term of twelve consecutive months or longer or, for services not available for 12 consecutive months, for a term of more than one year.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference

Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00-19321 Filed 7-31-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-415-000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 26, 2000.

Take notice that on July 21, 2000, Kern River Gas Transmission Company (Kern River) tendered a non-conforming service agreement and the following tariff sheets for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, to be effective August 20, 2000.

First Revised Sheet No. 2

Sheet Nos. 423-489 (Reserved)

Original Sheet No. 490

Sheet Nos. 491-499 (Reserved)

First Revised Sheet No. 911

Kern River states that the purpose of this filing is to submit a Rate Schedule KRF-1 transportation service agreement between Southwest Gas Corporation and Kern River that does not conform to Kern River's Rate Schedule KRF-1, and to reference this agreement in Kern River's tariff.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/>

[rims.htm](http://www.ferc.fed.us/online/rims.htm) (call 202-08-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00-19320 Filed 7-28-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-53-023]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Refund Report

July 26, 2000.

Take notice that on May 18, 2000, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing its refund report in the above-referenced docket pursuant to the Commission's Order Denying Petitions for Adjustment and Establishing Procedures for the Payment of Refunds for Kansas Ad Valorem Taxes dated September 10, 1997 (September 10, 1997 Order).

KMIGT states that the refund report summarizes the amounts received from producers or royalty owners by KMIGT through April 30, 2000, for Kansas ad valorem tax overpayments for the period October 4, 1983, through June 28, 1988. KMIGT states that the refund report also shows how KMIGT distributed these refunds to its former FERC-jurisdictional customers. In instances where payment has not been made within 30 days of receipt from producers, appropriate interest has been computed as provided for in the Order.

KMIGT states that copies of KMIGT's filing have been served on KMIGT's former FERC-jurisdictional customers, interested state commissions, and all parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before August 2, 2000. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

www.ferc.fed.us/online/rims.htm (call 202-208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00-19318 Filed 7-31-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN00-1-001]

Kinder Morgan Interstate Gas Transmission LLC, et al; Notice of Filing of Refund Report

July 26, 2000.

Take notice that on June 26, 2000, Kinder Morgan Interstate Gas Transmission LLC, *et al.* (Kinder Morgan Interstate, *et al.*), filed a refund report pursuant to a stipulation and consent agreement approved by the Commission's March 29, 2000 order in Docket No. IN00-1-000.

Kinder Morgan Interstate, *et al.*, states that the refund report indicates that the refunds, inclusive of interest, were sent to shippers on May 26, 2000. The refund report details the shippers receiving the refunds and the amount of the refunds.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before August 7, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00-19315 Filed 7-31-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. MT00-12-000]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 26, 2000.

Take notice that on July 20, 2000, Mid Louisiana Gas Company (MIDLA) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Sixth Revised Sheet No. 130
Ninth Revised Sheet No. 131
Second Revised Sheet No. 132

MIDLA states that the primary purpose of the filing Revised Tariff sheets is to update its tariff to reflect recent changes in shared personnel and facilities, and to reflect minor housekeeping changes for clarification of MIDLA's FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 00-19317 Filed 7-31-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. MT00-11-000]

Midcoast Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 26, 2000.

Take notice that on July 20, 2000, Midcoast Gas Transmission, Inc. (MIT)

tendered for filing as part of FERC Gas Tariff, Second Revised Volume No. 1, the following the tariff sheets, with an effective date of August 20, 2000:

Fifth Revised Sheet No. 148
Fourth Revised Sheet No. 149
Fourth Revised Sheet No. 150

MIT states that the primary purpose of the filing Revised Tariff sheets is to update its tariff to reflect recent changes in shared personnel and facilities, and to reflect minor housekeeping changes for clarification of MIT's FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 00-19316 Filed 7-31-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP00-257-000]

Ozark Gas Transmission, L.L.C., Notice of Technical Conference

July 26, 2000.

In the Commission's order issued on May 31, 2000, the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Wednesday, August 16, 2000, at 10:00 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

All interested parties and Staff are permitted to attend.

David P. Boergers,
Secretary.

[FR Doc. 00-19319 Filed 7-31-00; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Sunshine Act Meeting; Notice**

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: July 24, 2000, 65 FR 45596.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 26, 2000, 10 a.m.

CHANGE IN THE MEETING: The following Docket Nos. and Companies have been added to Item CAE-2 on the Agenda scheduled for the July 26, 2000 meeting.

Item No.	Docket No. and Company
CAE-2	EL00-83-001, NSTAR Services Company v. New England Power. Pool ER00-2811-000, 001, ISO New England, Inc. ER00-2937-000, ISO New England, Inc. EL00-62-000, ISO New England, Inc.

David P. Boergers,
Secretary.

[FR Doc. 00-19425 Filed 7-27-00; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6843-4]

Notice of Prevention of Significant Deterioration (PSD) Final Determination for RockGen Energy Center, Town of Christiana, Dane County, Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that on March 3, 2000, the Environmental Appeals Board (EAB) of the United States Environmental Protection Agency (EPA) dismissed a petition for review of a revised permit issued for the RockGen Energy Center by the Wisconsin Department of Natural Resources (WDNR) pursuant to the

Prevention of Significant Deterioration of Air Quality (PSD) regulations under 40 CFR 52.21.

DATES: The effective date for the Board's decision is March 3, 2000. Judicial review of this permit decision, to the extent it is available pursuant to section 307(b)(1) of the Clean Air Act, may be sought by filing a petition for review in the United States Court of Appeals for the Seventh Circuit within 60 days of today's date.

ADDRESSES: The documents relevant to the above action are available for public inspection during normal business hours at the following address by calling Raj Vakharia at (608) 267-2015 to arrange a visit: Department of Natural Resources, Bureau of Air Management, 101 South Webster Street, 7th Floor, Madison, WI.

FOR FURTHER INFORMATION CONTACT: Mr. Constantine Blathras (AR-18), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312) 886-0671.

SUPPLEMENTARY INFORMATION: On January 25, 1999, the WDNR issued PSD permit 98-RV-150 to RockGen Energy Center for the construction of a new 525 MW electric power generating facility in the Town of Christiana, Dane County, Wisconsin. The facility will include three 175-MW simple cycle combustion turbines using natural gas as a primary fuel and low sulfur No. 2 fuel oil as a back-up. The facility is subject to PSD for nitrogen oxides (NO_x) and carbon monoxide (CO).

On April 5, 1999, the Responsible Use of Rural and Agricultural Land (RURAL) petitioned the EAB to review this permit alleging: (i) WDNR's selection of BACT for NO_x was clearly erroneous; (ii) WDNR abused its discretion by failing to consider demand side management alternatives to the construction of the facility; (iii) WDNR's characterization of the facility as a "peak power generating facility" and its inclusion in the final permit of a continuous emission monitoring (CEM) exemption provision are inconsistent with applicable regulations; (iv) the start-up and shut-down provision in the final permit is not federally enforceable; and (5) WDNR failed to adequately reply to written comments on the draft permit or to explain changes to the draft permit.

On June 11, 1999, EPA filed an Amicus Brief that commented on (i) WDNR's BACT analysis, (ii) WDNR's conclusion that DLN was technically feasible as a control option, (iii) the permit provision regarding emissions during start-up and shutdown, and (iii)

demand-side management or other alternatives.

On August 25, the EAB issued its order remanding the permit as to (i) the conditions under which NO_x estimation procedures may be used in lieu of CEM, (ii) the permit provision relating to exceedances of the permit's emission limitations during start-up or shutdown of the facility, and (iii) WDNR's reply to written comments, and denying review as to the BACT determination issue and the demand-side alternatives issue, which were not properly preserved for review, and all other issues raised in the petition.

On October 15, 1999, WDNR issued revised permit 98-RV-150-R1 to RockGen Energy Center and a revised response to comments. The revised permit strikes the permit condition concerning exceedances of emissions limits during start-up and shut-down and amends the permit conditions under which NO_x estimation procedures may be used in lieu of CEM to reflect the language of applicable regulatory language under 40 CFR 72.2.

RURAL filed a petition for review of the revised permit on November 17, 1999, alleging that WDNR erroneously refused to consider the opposition of local and county zoning authorities to the permit. On March 3, 2000, the EAB denied the petition for review on the grounds that the issue had not been properly preserved.

Dated: July 21, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 00-19374 Filed 7-31-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30498; FRL-6737-2]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP-30498, must be received on or before August 31, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-30498 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James Tompkins, (PM-25), Registration Division, Office of Pesticide Programs (7505C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5697; and e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Cat-egories	NAICS codes	Examples of poten-tially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufact-uring

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register—Environmental**

Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-30498. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-30498 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be

CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-30498. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol:* 8033-RE. *Applicant:* Nippon Soda Co., Ltd. c/o Nisso America, 220 E. 42nd St., Suite 3002, New York, NY 10017. *Product name:* Equinox Herbicide. *Active ingredient:* Tepraloxym [(EZ-(RS)-2-[1-[(2E)-3-chloro-allyloxyimino]propyl]-3-hydroxy-5-perhydropryan-4-ylcyclohex-2-en-1-one)] at 20%. *Proposed classification/Use:* None. For use to control grasses in cotton, soybeans, and canola.

2. *File Symbol:* 8033-RG. *Applicant:* Nippon Soda Co., Ltd. *Product name:* BAS 620 H MUP. *Active ingredient:* Tepraloxym [(EZ-(RS)-2-[1-[(2E)-3-chloro-allyloxyimino]propyl]-3-hydroxy-5-perhydropryan-4-ylcyclohex-2-en-1-one)] at 94.8%. *Proposed classification/Use:* None. For use to control grasses in cotton, soybeans, and canola.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: July 20, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 00-19349 Filed 7-31-00; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[PF-955; FRL-6595-4]

Notice of Filing of Pesticide Petitions to Establish Tolerances for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF-955, must be received on or before August 31, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF-955 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Alan Reynolds, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605-0515; e-mail address: reynolds.alan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Cat-egories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>.

To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number PF-955. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF-955 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail

to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF-955. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

July 18, 2000.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the view of the petitioners. The petition summaries announce the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

I. Natural Industries, Inc.

0F6163

EPA has received a pesticide petition 0F6163 from Natural Industries, Inc., 6223 Theall Road, Houston, TX 77066, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for microbial pesticide *Streptomyces lydicus* WYEC 108.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Natural Industries, Inc. has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Natural Industries, Inc. and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the

terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

The active ingredient *Streptomyces lydicus* WYEC 108 is intended for use as a biological fungicide for the control of soil borne plant root rot and damping-off fungi. Fungi controlled include: *Fusarium*, *Rhizoctonia*, *Pythium*, *Phytophthora*, *Phytophthora*, *Phytophthora*, *Aphanomyces*, *Monosporascus*, *Armillaria* and other root-decay fungi. The active ingredient colonizes the root system, thus out competing other harmful fungi, and enhances plant vitality.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* *Streptomyces lydicus* WYEC 108 colonizes the growing root tips of plants and acts as a mycoparasite of fungal root pathogens to protect plants. Root colonization is a form of competitive exclusion of a pathogen from the root system. Other mechanisms of action include the production and excretion of anti-fungal metabolites (e.g., antibiotics and/or low molecular weight anti-fungal compounds) into the rhizosphere surrounding the roots of colonized plants, and mycoparasitism of the spores and vegetative mycelium of the fungal pathogens (e.g., via colonization of the spores of hyphae of the fungus, followed by the production of lytic enzymes such as chitinase). No deleterious effects to plants have been observed as a result of excretion of anti-fungal compounds from *Streptomyces lydicus* WYEC 108.

2. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* An analytical method for residues is not applicable. End-use products of *Streptomyces lydicus* WYEC 108 will be intended for greenhouse, nursery and turf grass use (food and non-food) as a soil mix or a soil drench. The products will be applied only to the soil, not to growing crops directly, and are not intended for use in irrigation systems. Residues of *Streptomyces lydicus* WYEC 108 are not expected on agricultural commodities.

C. Mammalian Toxicological Profile

The active ingredient *Streptomyces lydicus* WYEC 108 and the end-use product Actinovate™ Soluble have been

evaluated for toxicity through oral, dermal, pulmonary, and eye routes of exposure. The results of the studies have indicated toxicity category IV, which pose no significant human health risks.

For the active ingredient, the acute pulmonary toxicity/pathogenicity in rats is greater than 9.1×10^8 colony forming units (CFU) per animal and the acute injection toxicity/pathogenicity in rats is greater than 9.33×10^8 cfu per animal. No pathogenic or infective effects were observed in the studies. For the end-use formulation, the acute oral toxicity in rats was greater than 5,050 milligrams per kilograms (mg/kg) (toxicity category IV), eye irritation in rabbits was not observed at a dose of 0.1 milliliters (mL) (toxicity category IV) and skin irritation in rabbits was not observed at a dose of 0.5 mL (toxicity category IV). Since its discovery no incidents of hypersensitivity have been reported by researchers, manufacturers or users.

A waiver is being requested for acute dermal toxicity/pathogenicity based on the fact that there was no toxicity or pathogenicity in the pulmonary and injection studies, and no effects were observed in the skin irritation study. Dermal toxicity or pathogenicity would not be expected for this active ingredient. Finally, the organism has never been reported as a pathogen of humans, or as causing any type of adverse effect to humans, in published literature or through commercial use.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* Dietary exposure from use of *Streptomyces lydicus* WYEC 108, as proposed, is minimal. *Streptomyces lydicus* WYEC 108 is applied as a soil mix or soil drench. It is not applied to growing crops directly. Residues of *Streptomyces lydicus* WYEC 108 are not expected on agricultural commodities.

ii. *Drinking water.* Similarly, exposure to humans from residues of *Streptomyces lydicus* WYEC 108 in consumed drinking water would be unlikely. *Streptomyces lydicus* WYEC 108 is a naturally-occurring soil microorganism found in soil types world-wide. While spores of *Streptomyces lydicus* WYEC 108 may be found in aquatic environments, possibly because they are washed-in from surrounding terrestrial habitats, they are not known to grow or thrive in aquatic environments.

2. *Non-dietary exposure.* The potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use sites are agricultural and horticultural settings. However, non-

dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern. Person protective equipment mitigates the potential for exposure to applicators and handlers of the proposed products, when used in agricultural and horticultural settings.

E. Cumulative Exposure

It is not expected that, when used as proposed, *Streptomyces lydicus* WYEC 108 would result in residues that would remain in human food items.

F. Safety Determination

1. *U.S. population.* *Streptomyces lydicus* WYEC 108 is not pathogenic or infective to mammals. There have been no reports of toxins or secondary metabolites associated with the organism, and acute toxicity studies have shown that *Streptomyces lydicus* WYEC 108 is non-toxic, non-pathogenic, and non-irritating. *Streptomyces lydicus* WYEC 108 is applied to the soil. It is not applied to growing crops directly. Residues of *Streptomyces lydicus* WYEC 108 are not expected on agricultural commodities, and therefore, exposure to the general U.S. population, from the proposed uses, is not anticipated.

2. *Infants and children.* As mentioned above, residues of *Streptomyces lydicus* WYEC 108 are not expected on agricultural commodities. There is a reasonable certainty of no harm for infants and children from exposure to *Streptomyces lydicus* WYEC 108 from the proposed uses.

G. Effects on the Immune and Endocrine Systems

Streptomyces lydicus WYEC 108 is a naturally-occurring, non-pathogenic soil organism. To date there is no evidence to suggest that *Streptomyces lydicus* WYEC 108 functions in a manner similar to any known hormone, or that it acts as an endocrine disrupter.

H. Existing Tolerances

There is no U.S. EPA tolerance established for *Streptomyces lydicus* WYEC 108.

I. International Tolerances

A Codex Alimentarium Commission Maximum Residue Level is not required for *Streptomyces lydicus* WYEC 108.

II. Encore Technologies LLC

0F6170

EPA has received a pesticide petition 0F6170 from Encore Technologies LLC, 111 Cheshire Lane, Minnetonka, MN 55305, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish

an exemption from the requirement of a tolerance for microbial pesticide *Colletotrichum gloeosporioides f. sp. malvae*.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Encore Technologies LLC has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Encore Technologies LLC and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

Colletotrichum gloeosporioides f. sp. malvae is a naturally occurring fungus that is pathogenic to the weeds round-leaved mallow (*Malva pusila*), small flowered mallow (*Malva parviflora*), common mallow (*Malva neglecta*), and velvet leaf (*Abutilon theophrasti*), all of which are members of the family *Malvaceae*. The organism will infect and kill round-leaved and small flowered mallows at any stage of growth, from seedling to mature plant. *Colletotrichum gloeosporioides f. sp. malvae* causes disease lesions that will completely encircle the stems and petioles of mallow, causing the plant to collapse in 2 to 4 weeks.

The end-use formulation, Mallet WP, is a two-component product. Mallet WP Component A consists of a 16-oz. bottle containing a water soluble spore nutrient and rehydrating agent that activates the spores prior to application. Mallet WP Component M consists of a bag containing a water suspendible dried fungal spore formulation of *Colletotrichum gloeosporioides f. sp. malvae*. The product is applied to field crops at an early stage to control target weeds.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* *Colletotrichum gloeosporioides f. sp. malvae* was originally isolated and characterized by Dr. Knud Mortensen, Agriculture Canada Research Scientist, Regina, Saskatchewan in 1982. *Colletotrichum gloeosporioides f. sp. malvae* has been reported as indigenous to the provinces of Saskatchewan and Manitoba, occurring as an endemic pathogen of round-leaved mallow producing lesions on aerial parts. The active ingredient is

registered in Canada as BioMal® for control of round-leaved mallow in field crops. Extensive efficacy and field research trials were conducted in Canada, with results showing that the organism provided consistent and effective control over a wide variety of environmental conditions. Since its discovery in 1982, there have been no reports of adverse effects, sensitivity or reaction of any type related to use or handling of this organism.

2. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* An analytical method for residues is not applicable. The use of *Colletotrichum gloeosporioides f. sp. malvae* calls for application to field crops at an early stage for control of mallow species. Consequently, there is a considerable time lag between application and harvesting of crops. Since survival of the organism is in part dependent on existence of the host plant, it is unlikely that application will result in the presence of *Colletotrichum gloeosporioides f. sp. malvae* in food crops. Furthermore, the host weed species are not palatable forage for cattle or other livestock populations, either through direct feeding upon diseased plants, or indirectly through feeding upon crops that have been treated with *Colletotrichum gloeosporioides f. sp. malvae*. Residues of *Colletotrichum gloeosporioides f. sp. malvae* are not expected on agricultural commodities.

C. Mammalian Toxicological Profile

The active ingredient *Colletotrichum gloeosporioides f. sp. malvae* has been evaluated for toxicity through oral, dermal, pulmonary, intraperitoneal, and eye routes of exposure. The results of the studies have indicated there are no significant human health risks.

For the active ingredient, the acute oral toxicity/pathogenicity in rats is greater than 6×10^5 cfu/(g) grams, the acute dermal toxicity/pathogenicity in rats is greater than 4.21×10^7 cfu/g, the acute pulmonary toxicity/pathogenicity in rats is greater than 4.55×10^4 cfu per animal, and the acute intraperitoneal toxicity/pathogenicity in rats is greater than 5.7×10^5 cfu per animal. No pathogenic or infective effects were observed in the studies. Data on the end-use formulation is cited from the substantially similar product Collogo (*Colletotrichum gloeosporioides f. sp. aeschynomene*, EPA Reg. No. 70571-1). For the end-use formulation, slight eye irritation in rabbits was observed at a dose of 0.1 mL (toxicity category IV) and skin irritation in rabbits was not observed at a dose of 0.5 mL (Toxicity Category IV). Since its discovery, no

incidents of hypersensitivity have been reported by researchers, manufacturers or users.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Dietary exposure from use of *Colletotrichum gloeosporioides f. sp. malvae*, as proposed, is minimal. The use of *Colletotrichum gloeosporioides f. sp. malvae* calls for application to field crops at an early stage for control of mallow species. Consequently, there is a considerable time lag between application and harvesting of crops. Since survival of the organism is in part dependent on existence of the host plant, it is unlikely that application will result in the presence of *Colletotrichum gloeosporioides f. sp. malvae* in food crops. Residues of *Colletotrichum gloeosporioides f. sp. malvae* are not expected on agricultural commodities.

ii. *Drinking water*. Similarly, exposure to humans from residues of *Colletotrichum gloeosporioides f. sp. malvae* in consumed drinking water would be unlikely. *Colletotrichum gloeosporioides f. sp. malvae* is a naturally-occurring microorganism known to exist in terrestrial habitats in the presence of a host plant, it is not known to grow or thrive in aquatic environments.

2. *Non-dietary exposure*. The potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use sites are agricultural settings. However, non-dietary exposures would not be expected to pose any quantifiable risk due to a lack of residues of toxicological concern. Person protective equipment mitigates the potential for exposure to applicators and handlers of the proposed products, when used in agricultural settings.

E. Cumulative Exposure

It is not expected that, when used as proposed, *Colletotrichum gloeosporioides f. sp. malvae* would result in residues that would remain in human food items.

F. Safety Determination

1. *U.S. population*. *Colletotrichum gloeosporioides f. sp. malvae* is not pathogenic or infective to mammals. There have been no reports of toxins or secondary metabolites associated with the organism, and acute toxicity studies have shown that *Colletotrichum gloeosporioides f. sp. malvae* is non-toxic, non-pathogenic, and non-irritating. Residues of *Colletotrichum gloeosporioides f. sp. malvae* are not expected on agricultural commodities, and therefore, exposure to the general

U.S. population, from the proposed uses, is not anticipated.

2. *Infants and children*. As mentioned above, residues of *Colletotrichum gloeosporioides f. sp. malvae* are not expected on agricultural commodities. There is a reasonable certainty of no harm for infants and children from exposure to *Colletotrichum gloeosporioides f. sp. malvae* from the proposed uses.

G. Effects on the Immune and Endocrine Systems

Colletotrichum gloeosporioides f. sp. malvae is a naturally-occurring, non-pathogenic microorganism. To date there is no evidence to suggest that *Colletotrichum gloeosporioides f. sp. malvae* functions in a manner similar to any known hormone, or that it acts as an endocrine disrupter.

H. Existing Tolerances

There is no U.S. EPA Tolerance for *Colletotrichum gloeosporioides f. sp. malvae*.

I. International Tolerances

A Codex Alimentarium Commission Maximum Residue Level is not required for *Colletotrichum gloeosporioides f. sp. malvae*.

[FR Doc. 00-19347 Filed 7-31-00; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6843-6]

Notification of Additional Public Listening Session on the Draft Title VI Guidance Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public listening session.

SUMMARY: This notice announces the addition of a seventh public listening session on the draft Title VI guidance documents. On June 27, 2000, EPA published a **Federal Register** notice (65 FR 39649) containing two draft Title VI guidance documents for public comment regarding Title VI of the Civil Rights Act of 1964. The first document is entitled the Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs ("Draft Recipient Guidance"). The second document is entitled the Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits ("Draft Revised Investigation Guidance").

EPA previously announced that six public listening sessions would be held to receive comments on the draft Title VI guidance documents. The first public listening session, held in the mid-Atlantic area, occurred the day before the documents were published in the **Federal Register**. In an effort to allow the public the opportunity to review the draft documents prior to attending a listening session, EPA will hold another session in that region.

The meeting will be held on Wednesday, August 9, 2000, from 4:00 p.m. to 7:00 p.m. in the Shenandoah Room (4th floor) of the U.S. Environmental Protection Agency Region 3 office located at 1650 Arch Street in Philadelphia, PA. Consistent with the other listening sessions, this meeting will be attended by the Director of the Office of Civil Rights and key regional personnel. Members of the public wishing to make oral comments during the public listening session will be limited to not more than five (5) minutes and must register at the meeting site the day of the conference. Seating will be limited and available on a first come, first-served basis. If anyone attending the listening session needs special accommodations (*i.e.*, sign language interpreter, alternative text format for materials), please contact Mavis Sanders of the EPA Office of Civil Rights (OCR) at (202) 564-7272 at least three business days before the EPA listening session.

DATES: The meeting will be held on August 9, 2000.

ADDRESSES: The meeting will be held from 4:00 p.m. to 7:00 p.m. in the Shenandoah Room (4th floor) of the U.S. Environmental Protection Agency Region 3 office located at 1650 Arch Street, Philadelphia, PA.

FOR FURTHER INFORMATION CONTACT: Mavis Sanders, U.S. Environmental Protection Agency, Office of Civil Rights (1201A), 1200 Pennsylvania Avenue, NW, Washington, DC, 20460, telephone (202) 564-7272.

SUPPLEMENTARY INFORMATION: All comments on the draft Title VI guidance documents must be received in writing by EPA before August 28, 2000. Comments received by the Agency will be carefully considered in the revision of the draft guidance documents. Public comments should be mailed to: Title VI Guidance Comments, Office of Civil Rights (1201A), 1200 Pennsylvania Avenue NW, Washington DC, 20460, or submitted to the following e-mail address: civilrights@epa.gov. Please include your name and address, and, optionally, your affiliation.

Information regarding the other public listening sessions, a current list of scheduled outreach activities, as well as the June 27, 2000, **Federal Register** notice containing the draft guidance documents is available on the EPA OCR Web site at www.epa.gov/civilrights.

Dated: July 26, 2000.

Ann E. Goode,

Director, Office of Civil Rights.

[FR Doc. 00-19377 Filed 7-31-00; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Advisory Committee was established by P.L. 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Friday, August 11, 2000, at 9:30 a.m. to 12:00 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: This meeting will include a discussion of the joint National Academy of Science and Institute of International Economics study titled "The Future of the U.S. Ex-Im Bank", and other matters.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to August 4, 2000, Teri Stumpf, Room 1215, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565-3502 or TDD (202) 565-3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Teri Stumpf, Room 1215, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565-3502.

John M. Niehuss,

General Counsel.

[FR Doc. 00-19379 Filed 7-31-00; 8:45 am]

BILLING CODE 6690-01-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 10:24 a.m. on Thursday, July 27, 2000, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Director John D. Hawke, Jr. (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than July 25, 2000, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: July 27, 2000.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 00-19472 Filed 7-28-00; 11:05 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information.

Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Mary M. West—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829). OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860).

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision of the Following Reports

1. *Report title:* Monthly Survey of Industrial Electricity Use.

Agency form number: FR 2009.

OMB Control number: 7100-0057.

Frequency: Monthly.

Reporters: FR 2009a/c: Electric utility companies; FR 2009b: Cogenerators.

Annual reporting hours: FR 2009a/c: 2,196 hours; FR 2009b: 1,188 hours.

Estimated average hours per response: FR 2009a/c: 1 hour; FR 2009b: 30 minutes.

Number of respondents: FR 2009a/c: 183; FR 2009b: 198.

Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 225a, 263, 353 *et seq.*, and 461) and individual respondent data are given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The survey collects information on the volume of electric power delivered during the month to classes of industrial customers. There are now three versions of the survey: the FR 2009a, collects information from electric utilities that report using the Standard Industrial Classification (SIC) codes, the FR 2009b collects information from manufacturing and mining facilities that generate electric power for their own use, and the 2009c, collects information from electric utilities that report using the North American Industry Classification System (NAICS).

Current Actions: During the next two years the industrial output index will be revised to reflect the new NAICS. The published series will be categorized

under the NAICS codes instead of the current SIC codes. To facilitate this transition process, the Federal Reserve will ask utilities to reclassify their customers using the new codes. The FR 2009c has been created in the NAICS format for use by respondents that have made the transition from SIC to NAICS codes. The FR 2009a would be completed only by the respondents that choose to report SIC codes. This approach would not impose any added burden on the respondents. The Federal Reserve also proposes to eliminate the FR 2009a after the two-year transition period.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Reports

1. *Report titles:* Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans; Quarterly Report of Credit Card Plans.

Agency form number: FR 2835; FR 2835a.

OMB Control number: 7100-0085.

Frequency: Quarterly.

Reporters: Commercial Banks.

Annual reporting hours: FR 2835: 90 hours; FR 2835a: 200 hours.

Estimated average hours per response: FR 2835: 9 minutes; FR 2835a: 30 minutes.

Number of respondents: FR 2835: 150; FR 2835a: 100.

Small businesses are not affected.

General description of report: These information collections are voluntary (12 U.S.C. 248(a)(2)). The FR 2835a individual respondent data are given confidential treatment (5 U.S.C. 552 (b)(4)), the FR 2835 data however, is not given confidential treatment.

Abstract: The FR 2835 collects the most common interest rate charged at a sample of 150 commercial banks on two types of consumer loans made in a given week each quarter: new auto loans and other loans for consumer goods and personal expenditures. The data are reported for the calendar week beginning on the first Monday of each survey month (February, May, August, and November).

The FR 2835a collects information on two measures of credit card interest rates from a sample of 100 commercial banks (authorized panel size), selected to include banks with \$1 billion or more in credit card receivables, and a representative group of smaller issuers. The data are representative of interest rates paid by consumers on bank credit cards because the panel includes virtually all large issuers and an appropriate sample of other issuers.

2. *Report title:* Report of Changes in Foreign Investments (Made Pursuant to Regulation K).

Agency form number: FR 2064.

OMB Control number: 7100-0109.

Frequency: Event-generated.

Reporters: Member banks, Edge and agreement corporations, and bank holding companies.

Annual reporting hours: 750 hours.

Estimated average hours per response: 30 minutes.

Number of respondents: 50.

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 602, 625 and 1844) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: Member banks, Edge and agreement corporations, and bank holding companies are required to file the FR 2064 to record changes in their international investments. The FR 2064 report is event generated and is filed no later than the last day of the month following the month in which the change occurred. The Federal Reserve uses the information to monitor investments in the international operations of U.S. banking organizations and to fulfill its supervisory responsibility under Regulation K.

Final Approval Under OMB Delegated Authority of the Discontinuation of the Following Reports

1. *Report title:* Quarterly Gasoline Company Report.

Agency form number: FR 2580.

OMB control number: 7100-0009.

Frequency: Quarterly.

Reporters: Gasoline companies.

Annual reporting hours: 4 hours.

Estimated average hours per response: 9 minutes.

Number of respondents: 7.

Small businesses are not affected.

Abstract: The FR 2580 collected outstanding balances on retail credit card accounts at gasoline companies. The number of FR 2580 reporters has declined over time as the industry structure has changed. Initially, the data were collected from the universe of approximately thirty gasoline companies; subsequently, some smaller companies withdrew from the sample or were merged into other companies. In recent years some major companies have entered into Aco-branding@ arrangements with banks and have significantly reduced, or eliminated, their own credit card portfolios. The Federal Reserve will discontinue the FR 2580 as of July 31, 2000 primarily because the number of respondents has dwindled. The decrease in reporting is due in part to the purchase of some of

the gasoline companies' receivables by depository institutions in recent years. Because of the difficulty in maintaining a meaningful sample and because of the small fraction of consumer credit that these receivables represent, the Federal Reserve does not believe it is useful to continue the report.

Board of Governors of the Federal Reserve System, July 26, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00-19313 Filed 7-31-00; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

Background

Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Mary M. West—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829); OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860).

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Report of Transaction Accounts, Other Deposits, and Vault Cash; Report of Certain Eurocurrency Transactions.

Agency form number: FR 2900; FR 2950/2951.

OMB control number: 7100-0087.

Frequency: Weekly, quarterly.

Reporters: Depository institutions.

Annual reporting hours: 984,138 hours.

Estimated average hours per response: FR 2900: 3.50; FR 2950/2951: 1.00.

Number of respondents: FR 2900: 4,813 weekly, and 5,880 quarterly; FR 2950/2951: 497 weekly, and 2 quarterly. Small businesses are affected.

General description of report: These information collections are mandatory: FR 2900 and FR 2950 (12 U.S.C. 248(a), 461, 603, and 615) and FR 2951 (12 U.S.C. 248(a), 461, and 347d) and are given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2900 report collects information on deposits and related items from depository institutions that have transaction accounts or nonpersonal time deposits and that are not fully exempt from reserve requirements ("nonexempt institutions"). These institutions file weekly if their total deposits are greater than or equal to the nonexempt deposit cutoff and quarterly if their total deposits are less than the nonexempt deposit cutoff. The FR 2950/2951 collects information on Eurocurrency transactions from depository institutions that obtain funds from foreign (non-U.S.) sources or that maintain foreign branches. The Federal Reserve raised the deposit cutoff used to determine weekly versus quarterly FR 2900 reporting (the "nonexempt cutoff") above its indexed level of \$84.5 million to \$95 million. These mandatory reports are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and controlling the monetary and reserve aggregates.

2. Report title: Annual Report of Total Deposits and Reservable Liabilities.

Agency form number: FR 2910a.

OMB control number: 7100-0175.

Frequency: Annual.

Reporters: Depository institutions.

Annual reporting hours: 2,734 hours.

Estimated average hours per response: 30 minutes.

Number of respondents: 5,468.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a) and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This report collects two items of information from depository institutions (other than U.S. branches and agencies of foreign banks and Edge

and agreement corporations) that are fully exempt from reserve requirements under the Garn-St Germain Depository Institutions Act of 1982. This mandatory report is used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and controlling the monetary and reserve aggregates.

3. Report title: Allocation of Low Reserve Tranche and Reservable Liabilities Exemption.

Agency form number: FR 2930/2930a.

OMB control number: 7100-0088.

Frequency: Annually, and on occasion.

Reporters: Depository institutions.

Annual reporting hours: 64 hours.

Estimated average hours per response: 15 minutes.

Number of respondents: 255.

Small businesses are affected.

General description of report: This information collection is mandatory: FR 2930 (12 U.S.C. 248(a), 461, 603, and 615) and FR 2930a (12 U.S.C. 248(a) and 461). It is also given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2930 and the FR 2930a collect information on the allocation of the low reserve tranche and reservable liabilities exemption for depository institutions having offices (or groups of offices) that submit separate FR 2900 deposits reports. The data collected on these reports are needed for the calculation of required reserves.

4. Report title: Report of Foreign (Non-U.S.) Currency Deposits.

Agency form number: FR 2915.

OMB control number: 7100-0237.

Frequency: Quarterly.

Reporters: Depository institutions.

Annual reporting hours: 366 hours.

Estimated average hours per response: 30 minutes.

Number of respondents: 183.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a)(2) and 347d) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2915 collects weekly averages of the amounts outstanding for foreign (non-U.S.) currency deposits held at U.S. offices of depository institutions, converted to U.S. dollars and included on the FR 2900 (OMB No. 7100-0087), the principal deposits report that is used for the calculation of required reserves and for the construction of the monetary aggregates. Foreign currency deposits are subject to reserve requirements and, therefore, are included in the FR 2900. However, foreign currency deposits are not included in the monetary aggregates.

The FR 2915 data are used to back foreign currency deposits out of the FR 2900 data for construction and interpretation of the monetary aggregates. The FR 2915 data are also used to monitor the volume of foreign currency deposits.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Report

1. Report title: Daily Advance Report of Deposits.

Agency form number: FR 2000.

OMB control number: 7100-0087.

Frequency: Daily.

Reporters: Depository institutions.

Annual reporting hours: 24,960 hours.

Estimated average hours per response: 36 minutes.

Number of respondents: 160.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a) and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This advance report is commonly referred to as the Markstat D. The Markstat D report collects selected deposit and vault cash data for the most recent reporting week from a sample of large commercial banks and thrifts before such data become available for the universe of all FR 2900 weekly reporters. At present, ten data items (a subset of those on the FR 2900) are collected on the report. The advance report is used in the construction of preliminary estimates of the monetary aggregates for the week just ending.

Current actions: The Federal Reserve dropped three items from the FR 2000 and reduced the authorized panel size from 186 to 160 institutions. The elimination of the three reporting items and the reduction of the authorized panel size reduces the reporting burden by 15,662 hours.

Discontinuance of the Following Report Under OMB Delegated Authority

1. Report title: Quarterly Report of Selected Deposits, Vault Cash, and Reserve Liabilities.

Agency form number: FR 2910q.

OMB control number: 7100-0175.

Frequency: Quarterly.

Reporters: Depository institutions.

Annual reporting hours: 3,936 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 492.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a) and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This report collected information from depository institutions (other than U.S. branches and agencies of foreign banks and Edge and agreement corporations) that are fully exempt from reserve requirements under the Garn-St Germain Depository Institutions Act of 1982. This report was used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and controlling the monetary and reserve aggregates. The Federal Reserve eliminated the exempt deposit cutoff and discontinued this report associated with that cutoff. The Federal Reserve believes that, for exempt institutions, the quarterly reports of condition are adequate for quarterly benchmarking of the monetary aggregates. The Federal Reserve also believes that by shifting the current FR 2910q reporters to the annual, two-item FR 2910a, the Board will be able to adequately monitor compliance with Regulation D. The shift in reporting frequency of the almost 500 FR 2910q respondents to the FR 2910a would reduce reporting burden by 3,690 hours.

Board of Governors of the Federal Reserve System, July 26, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00-19314 Filed 7-31-00; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the "agencies"), hereby give notice that they plan to submit to the Office of Management and Budget (OMB) requests for review of the information collection system described below. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1,

1995, unless it displays a currently valid OMB control number.

On May 22, 2000, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on the extension, without revision, of the currently approved information collection: the Country Exposure Report for U.S. Branches and Agencies of Foreign Banks (FFIEC 019). The agencies, however, are making a minor clarification to the FFIEC 019 general instructions regarding the treatment of credit derivatives as guarantees, effective September 30, 2000.

DATES: Comments must be submitted on or before August 31, 2000.

ADDRESSES: Comments, which should refer to the OMB control number, should be addressed to the OMB desk officer: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

Board: Written comments on the FFIEC 019 should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that have been submitted to OMB for review and approval may be requested from the agency clearance officer, whose name appears below.

Board: Mary M. West, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Proposal To Extend for Three Years With Minor Instructional Clarification the Following Currently Approved Collection of Information

Report title: Country Exposure Report for U.S. Branches and Agencies of Foreign Banks

Form number: FFIEC 019.

OMB number: 7100-0213.

Frequency of response: Quarterly.

Affected Public: U.S. branches and agencies of foreign banks.

Number of respondents: 230.

Estimated average hours per response: 10 hours.

Estimated Annual reporting hours: 9,200 hours.

General Description of Report

This information collection is mandatory: 12 U.S.C. 3105 and 3108 for the Board of Governors of the Federal Reserve System; sections 7 and 10 of the Federal Deposit Insurance Act (12 U.S.C. 1817, 1820) for the Federal Deposit Insurance Corporation; and the National Bank Act (12 U.S.C. 161) for the Office of the Comptroller of the Currency). This information collection is given confidential treatment. (5 U.S.C. 552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract

All individual U.S. branches and agencies of foreign banks that have more than \$30 million in direct claims on residents of foreign countries must file the FFIEC 019 report quarterly. Currently, all respondents report adjusted exposure amounts to the five largest countries having at least \$20 million in total adjusted exposure. The Agencies collect this data to monitor the extent to which such branches and agencies are pursuing prudent country risk diversification policies and limiting potential liquidity pressures. No changes are proposed to the FFIEC 019 reporting form, however, minor clarifications are proposed to the instructions.

Current Actions: The agencies did not receive any comments in response to the notice published in the **Federal Register** on May 22, 2000, (65 FR 32098) requesting public comment on the extension without revision of this information collection. The agencies, however, are making a minor clarification to the FFIEC 019 general instructions regarding the treatment of credit derivatives as guarantees, effective September 30, 2000.

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Board of Governors of the Federal Reserve System, July 26, 2000.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. 00-19312 Filed 7-31-00; 8:45 am]

BILLING CODE 6210-01-P

Dated: July 28, 2000.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. 00-19585 Filed 7-28-00; 3:36 pm]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Monday, August 7, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202-452-3204.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistance Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
20002276	Pfizer Inc.	Warner-Lambert Company	Warner-Lambert Company
20003386	Novell, Inc.	Redleaf Group, Inc.	Redleaf Group, Inc.
20003390	Prime 66 Partners, L.P.	NTL Incorporated	NTL Incorporated
20003398	Prime 66 Partners, L.P.	CoreComm Limited	CoreComm Limited
20003405	Lincare Holdings Inc.	United Medical, Inc.	United Medical, Inc.
20003429	Vodafone AirTouch Plc	James R. Leininger	ATX Technologies, Inc.
20003443	Public Service Enterprise Group Incorporated.	Panda Energy International, Inc.	Panda Oneta Power, L.P., Union Power Partners, L.P.
20003450	COMSYS Holding, Inc.	Cotelligent, Inc.	Trans-Union Interstate Pipeline, L.P. Cotelligent, Inc.
20003452	KELP—1987 Limited Partnership	Bay View Capital Corporation	Bankers Mutual Mortgage, Inc.
20003457	ShopKo Stores, Inc.	P.M. Place Stores Company	P.M. Place Stores Company
20003472	The Walt Disney Company	Timothy P. Mayhew	Hibernia Communications, LLC
20003477	Geoworks Corporation	Science Applications International Corporation.	Telcordia Technologies, Inc.
20003483	Hewlett-Packard Company	Redswitch, Inc.	Redswitch, Inc.
20003494	UnitedGlobalCom, Inc.	Signal Global Communications, Inc.	Signal Global Communications, Inc.
20003497	Norske Skogindustrier ASA	Fletcher Challenge Limited	Fletcher Challenge Paper Limited
20003501	MDU Resources Group, Inc.	Philip H. Wagner	The Wagner-Smith Company, Wagner-Smith Pump&Systems, Inc.
	.....		Wagner-Smith Equipment Co., Frebco, Inc., Newco, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—06/20/2000

20003382	Berkshire Hathaway Inc.	Edward Bridge	Ben Bridge Corporation
20003383	Edward Bridge	Berkshire Hathaway Inc.	Berkshire Hathaway Inc.

Trans No.	Acquiring	Acquired	Entities
20003474	Lernout & Hauspie Speech Products N.V.	Rodeer Systems, Inc.	Rodeer Systems, Inc.
20003478	Science Applications International Corporation.	Geoworks Corporation	Geoworks Corporation
20003486	First Union Corporation	First Albany Companies Inc.	First Albany Companies Inc.
20003500	The Progressive Corporation	PowerSports, Inc.	PowerSports, Inc.
20003502	FairPoint Communications, Inc.	W.B.W. Trust Number One	Comerco, Inc.
20003511	3Com Corporation	AnyDay.com, Inc.	AnyDay.com, Inc.
20003536	Michael B. Bates	InfoSpace, Inc.	InfoSpace, Inc.
20003548	Avanex Corporation	David F. Millet	Holographix, Inc.
20003558	Teligent, Inc.	Alan Widra	American Long Lines, Inc.
20003572	Chevron Corporation	PG&E Corporation	PG&E Energy Services Ventures, LLC
20003576	Bernard J. Ebbers	KLLM Transport Services, Inc.	KLLM Transport Services, Inc.
20003590	Matthew Schoenberg	Diageo plc	Burger King Corporation
20003609	New England Business Service, Inc.	Premium Wear, Inc.	Premium Wear, Inc.
20003632	Mohawk Corp	PSC Inc.	PSC Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—06/21/2000

20000238	Allied Waste Industries, Inc.	Republic Services, Inc.	Green Valley Environmental Corp., AAA Disposal of Tenn., Inc. Republic Ser. of Tenn. I, LLC, Safety Lights, Inc. York Waste Disposal, Inc., AAA Disposal Service, Inc.
20000239	Republic Services, Inc.	Allied Waste Industries, Inc.	American Disposal Services of Missouri, Inc. BFI Waste Systems of New Jersey, Inc. Tom Luciano's Disposal Service, Inc.
20003205	CompDent Corporation	OHS, Inc.	OHS, Inc.
20003214	Total Fina Elf S.A	Applied Power Inc.	Barry Wright Corporation
20003527	The BISYS Group, Inc.	PRIMEDIA Inc.	Pictorial Holdings Inc.
20003535	Citadel Communications Corporation	Dick Broadcasting Company, Inc. of Tennessee.	Dick Broadcasting Company, Inc. of Tennessee
20003540	Calpine Corporation	Edison International	Auburndale Power Partners, Limited Partnership
20003542	Scripps Health	SC Physicians Investment Company, Inc.	SC Physicians Organization, Inc.
20003545	Clear Channel Communications, Inc.	Eastern Radio Assets I, LLC	Eastern Radio Assets I, LLC
20003547	Pemstar, Inc.	John E. Miller	Turtle Mountain Corporation
20003549	Casella Waste Systems, Inc.	Louisiana-Pacific Corporation	Louisiana-Pacific Corporation
20003550	Louisiana-Pacific Corporation	Casella Waste Systems, Inc.	Casella Waste Systems, Inc.
20003552	Quanta Services, Inc.	IRBY Corp	IRBY Corp.
20003554	General Electric Company	M.A. Hanna Company	Cadillac Plastic (Canada), Inc. Cadillac Plastic Group, Inc., R.A. Products, Inc.
20003594	MBNA Corporation	Banknorth Group, Inc.	The Howard Bank, N.A.

TRANSACTIONS GRANTED EARLY TERMINATION—06/22/2000

20003321	Barry A. Ackerley	Fisher Companies Inc.	Fisher Broadcasting—Fresno, LLC
20003348	Yasumitsu Shigeta	Pixo, Inc.	Pixo, Inc.
20003426	Fairey Group plc	AGIV Aktiengesellschaft	Spectris AG Sensoren und Systeme
20003428	Comtech Telecommunications Corp.	Adaptive Broadband Corporation	Adaptive Broadband Corporation
20003453	Jamal Hamdani	Adaptive Broadband Corporation	Adaptive Broadband Corporation
20003482	Terence H. Matthews	IronBridge Networks Incorporated	IronBridge Networks Incorporated
20003487	L-3 Communications Holdings, Inc.	MPRI, Inc.	MPRI, Inc.
20003519	Safeguard Scientifics, Inc.	LifeF/X, Inc.	LifeF/X, Inc.
20003520	Varian Medical Systems, Inc.	IMPAC Medical Systems, Inc.	IMPAC Medical Systems, Inc.
20003525	BBA Group PLC	Lynton Group, Inc.	Lynton Group, Inc.
20003526	iXL Enterprises, Inc.	iBelong.com, Inc.	iBelong.com, Inc.
20003531	CRH plc	CCI Manufacturing, Inc.	CCI Manufacturing, Inc.
20003556	Alec E. Gores	Cabletron Systems, Inc.	Cabletron Systems, Inc.
20003559	Julie A. Dobson	Holding Company	Holding Company
20003560	Gerald T. Vento	Holding Company	Holding Company
20003561	Thomas H. Sullivan	Holding Company	Holding Company
20003562	M Financial Incorporated	Bank of America Corporation	Management Compensation Group, Northwest, L.L.C.
20003567	IntraNet Solutions, Inc.	Inso Corporation	Inso Chicago Corporation, Inso Kansas City Corporation
20003571	Mrs. Ginette Dalloz	Mr. John R. Liautaud	Fendall Co.
20003581	Centennial Communications Corp.	Raveesh Kumra	Lake Charles Cellteico/Centennial Lake Charles LLC

Trans No.	Acquiring	Acquired	Entities
20003584	Silver Lake Partners, L.P.	Girish Gaitonde	Xoriant Corporation
20003585	Piedmont/Hawthorne Holdings, L.L.C.	Lee Juan & Ethylene Lanford	Associated Hangar, Inc.
20003586	JAKKS Pacific, Inc.	Pentech International Inc.	Pentech International Inc.
20003608	Advance Paradigm, Inc.	First Florida International Holdings, Inc.	First Florida International Holdings, Inc.
20003615	BellSouth Corporation	DeVlieg-Bullard, Inc., (debtor-in-possession)	DeVlieg-Bullard, Inc., (debtor-in-possession)
20003630	Southern States Cooperative, Incorporated.	Agway, Inc.	Agway, Inc.
20003633	Joseph Littlejohn & Levy Fund II, L.P.	James D. Goldston, III	Goldston's Incorporated

TRANSACTIONS GRANTED EARLY TERMINATION—06/23/2000

20003323	Danaher Corporation	Warner Electric Group, Inc.	Warner Electric Group, Inc.
20003417	Sonepar, S.A.	Viking Electric Supply, Inc.	Badger Electric Supply, Inc.
20003516	Edison International	P&L Coal Fields Holding Corporation ..	Viking Electric Supply, Inc.
20003553	General Electric Company	Morton R. French, Jr.	Citizens Power, LLC
.....	.....	.....	Aluplastic do Brazil
.....	.....	.....	Bodega de Plasticos
.....	.....	.....	Chesapeake Plastics, Inc.
.....	.....	.....	Comco Graphics, Inc.
.....	.....	.....	Comco IL, Inc.
.....	.....	.....	Comco Plastics Ltd. (Ireland)
.....	.....	.....	Comco Plastics, Ltd. (U.K.)
.....	.....	.....	Commercial Plastics & Supply Co., Inc.
.....	.....	.....	Commercial Plastics & Supply Corp.
.....	.....	.....	Commercial Plastics & Supply Corp. (P.R)
.....	.....	.....	Commercial Plastics & Supply Corp. of California
.....	.....	.....	Commercial Plastics & Supply Corp. of Connecticut
.....	.....	.....	Commercial Plastics & Supply Corp. of Florida
.....	.....	.....	Commercial Plastics & Supply Corp. of Georgia
.....	.....	.....	Commercial Plastics & Supply Corp. of MN.
.....	.....	.....	Commercial Plastics & Supply Corp. of New Jersey
.....	.....	.....	Commercial Plastics & Supply Corp. of Pennsylvania
.....	.....	.....	Commercial Plastics & Supply Corp. of Texas
.....	.....	.....	Commercial Plastics & Supply Corp. of TN
.....	.....	.....	Commercial Plastics & Supply Corp. of Utah
.....	.....	.....	Commercial Plastics de Mexico S.A. de C.V.
.....	.....	.....	Commercial Polymers Corp.
.....	.....	.....	Commercial Plastics (C.P.), Inc.
.....	.....	.....	Day Plas S.A.
.....	.....	.....	Dominicanos (Import) S.A.
.....	.....	.....	Estok Plastics Company, Inc.
.....	.....	.....	Flexlite Corp.
.....	.....	.....	Hyaline Plastics Corporation
.....	.....	.....	Insulgard Corp.
.....	.....	.....	Plasticos Commercial
20003587	webMethods, Inc.	Active Software, Inc.	Active Software, Inc.
20003592	Sovereign Bankcorp, Inc.	Diamond Lease Co. Ltd.	New England Capital Corporation
20003597	GTE Corporation	Southern Indiana RSA Limited Partnership.	Southern Indiana RSA Limited Partnership
20003598	Citigroup Inc.	Marathon Fund Limited Partnership III	Crescent Sleep Products Company
20003600	Hubbell Incorporated	Salient 3 Communications, Inc.	Gia-Tronics Corporation, a Delaware Corporation
20003601	Leucadia National Corporation	Reliance Group Holdings, Inc.	Reliance Group Holdings, Inc.
20003602	Odyssey Investment Partners Fund, L.P..	Gregory and Elizabeth Maday	Bristol Investments, Inc.
.....	.....	.....	Conspec Marketing & Manufacturing Co., Inc.
.....	.....	.....	Conspec Performance Products, Inc.
20003604	The Chase Manhattan Corporation	Robert Fleming Holdings Limited	Robert Fleming Holdings Limited

Trans No.	Acquiring	Acquired	Entities
20003605	Niku Corporation	ABT Corporation	ABT Corporation
20003641	Vantage-Sheakley Trust	HealthPlan Services Corporation	American Benefit Plan Administrators, Inc.
	.....	.....	Centra HealthPlan LLC
	.....	.....	HealthPlan Services, Inc.
	.....	.....	National Preferred Provider Network, Inc.
20003664	Hanover Compressor Company	Stewart & Stevenson Services, Inc.	Stewart & Stevenson Services, Inc.
20003730	MBNA Corporation	The Prudential Insurance Company of America.	PIC Realty Corporation
	.....	.....	The Prudential Bank and Trust Company
	.....	.....	The Prudential Savings Bank

TRANSACTIONS GRANTED EARLY TERMINATION—06/26/2000

20003456	Aurora Equity Partners II L.P.	Kennerly Plastics, L.P.	Supreme Plastics, Inc.
20003459	GC Companies, Inc.	VeloCom Inc.	VeloCom Inc.
20003505	ImageX.Com, Inc.	Herbert R. Porter, Jr.	Howard Press Limited Partnership
20003530	LSI Logic Corporation	DataPath Systems, Inc.	DataPath Systems, Inc.
20003583	Investor AB	Invesmart, Inc.	Invesmart, Inc.
20003599	Aventis S.A.	Serologicals Corporation	Seramed, Inc.
20003612	Advanced Radio Telecom Corp.	Paul S. Bachow	Bachow Communications, Inc.
20003614	Kellogg Company	Kashi Company	Kashi Company
20003617	Partek Oyj Abp	Timbco Hydraulics, Inc.	Timbco Hydraulics, Inc.
20003618	Royal Dutch Petroleum Company	Cytec Industries Inc.	Aviatrix Corporation, Mivida Corporation
20003619	Warburg, Pincus, Equity Partners, L.P.	Warburg, Pincus Ventures, L.P.	WebGain, Inc.
20003620	Gucci Group N.V.	Schweizerhall Holding AG	Boucheron International AG
20003621	Vesta Insurance Group, Inc.	American Founders financial Corp.	American Founders Financial Corp.
20003622	Entravision Communications Corporation.	Sunburst Media, L.P.	Sunburst Media, L.P.
20003624	Welsh, Carson, Anderson & Stowe IX, L.P..	Slugger Acquisition Corp. (Newco)	Slugger Acquisition Corp. (Newco)
20003625	Welsh, Carson, Anderson & Stowe VIII, L.P..	Slugger Acquisition Corp. (Newco)	Slugger Acquisition Corp. (Newco)
20003628	Merrill Lynch & Co., Inc.	Herzog, Heine, Geduld, Inc.	Herzog, Heine, Geduld, Inc.
20003631	BellSouth Corporation	United Road Services, Inc.	United Road Services, Inc.
20003635	Hampshire Equity Partners II, L.P.	Hampshire Equity Partners II, L.P.	GlobalLearningSystem.com, Inc.
20003636	V. Prem Watsa	The Trident Partnership, L.P.	Sen-Tech International Holdings, Inc.
20003638	Guilford Pharmaceuticals Inc.	Gilatech Inc.	Gilatech Inc.
20003642	Welsh, Carson, Anderson & Stowe VIII, L.P..	CFW Communications Company	CFW Communications Company
20003644	John C. Hampton	Industry Pacific, Inc.	Industry Pacific, Inc.
20003645	QIAGEN N.V.	Operon Technologies, Inc.	Operon Technologies, Inc.
20003650	Emanuel E. Geduld	Merrill Lynch & Co., Inc.	Merrill Lynch & Co., Inc.
20003651	Quanta Services, Inc.	Ronald A. Cindrigh, Sr.	General Industries, Inc.
20003653	BPB Industries plc	Asbestos Settlement Trust	Capaul Corporation
	.....	.....	Celotex Corporation
	.....	.....	Celotex Metals Corporation
20003655	U.S. Bancorp	Pitney Bowes Inc.	Pitney Bowes Bank
20003657	Caisse de depot et placement du Quebec.	Windward Capital Associates, L.P.	Meridian Automotive Systems, Inc.
20003658	United Auto Group, Inc.	Fred D. Schneider	Great Western Imports, Inc.
	.....	.....	Great Western Management Corp.
	.....	.....	Lester Goodson Pontiac
20003659	PPG Industries, Inc.	Apogee Enterprises, Inc.	PPG Auto Glass, LLC
20003660	Robert C. Fanch	Elantic Communications, Inc.	Elantic Communications, Inc., a Delaware corporation
20003661	M/C Venture Partners IV, L.P.	Elantic Communications, Inc.	Elantic Communications, Inc., a Delaware corporation
20003662	KDZ Holdings, LLC	Elantic Communications, Inc.	Elantic Communications, Inc., a Delaware corporation
20003663	PerkinElmer, Inc.	Genstar Capital Partners II, L.P.	NEN Life Sciences, Inc.
20003665	Media/Communications Partners III Limited Partnership.	Elantic Communications, Inc.	Elantic Communications, Inc., a Delaware corporation
20003667	Brentwood Associates Private Equity III, L.P..	Timothy J. Battles	KCS industries, Inc.
20003668	Quantum Industrial Holdings, Ltd.	Jamcracker, Inc.	Jamcracker, Inc.
20003669	SIGH Schweizerische Industrie-Gesellschaft Holding AG.	Thyssen Krupp AG	Krupp Plastics & Rubber Machinery (USA), Inc.
20003670	3dfx Interactive, Inc.	GigaPixel Corporation	GigaPixel Corporation
20003671	George T. Haber	3dfx Interactive, Inc.	3dfx Interactive, Inc.
20003691	Summit Bankcorp.	National Bank of Canada	National Canada Business Corp.

Trans No.	Acquiring	Acquired	Entities
20003696	United Parcel Services, Inc.	James Nodine	Technical Service Corporation International, Inc. TSCI Holdings, Inc.
20003697	United Parcel Services, Inc.	Stephen McIlvain	Technical Service Corporation International, Inc. TSCI Holdings, Inc.
20003699	Windward Capital Associates, L.P.	Richard S. Crawford	Cambridge Ind., Inc., CE Automotive Trim Systems, Inc. Cambridge Industries Holdings, Inc.
20003704	Cedar Creek Partners LLC	Schaefer Manufacturing, Inc.	Schaefer Manufacturing, Inc.
20003713	Code Hennessy & Simmons IV, L.P.	John Mansfield Group PLC	WNA Holding Company
20003714	Greenwich Street Capital Partners II, L.P.	WNA Holding Company	WNA Holding Company
20003716	John E. Feltl	Stockwalk.com Group, Inc.	Stockwalk.com Group, Inc.
20003717	Stockwalk.com Group, Inc.	John E Feltl	R.J. Steichen & Company
20003719	NACCO Industries, Inc.	Phillipp Holzmann AG	Dolet Hills Mining Venture
20003725	Huhtamaki Van Leer Oyi	Huhtamaki Van Leer Oyi	Sirco Systems, LLC
20003726	Castle Harlan Partners II, L.P.	Castle Harlan partners III, L.P.	Taylor Senior Holding Corp.
20003733	eBay Inc.	Half.com, Inc.	Half.com, Inc.
20003744	V.F. Corporation	Fruit of the Loom, Ltd.	Fruit of the Loom, Ltd.
20003764	Tyco International Ltd.	Thomas & Betts Corporation	Augat, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—06/27/2000

20003470	Buckeye Partners, L.P.	Agway, Inc.	Agway Energy Products LLC
20003473	RailWorks Corporation	HSQ Technology	HSQ Technology
20003475	Safeguard Scientifics, Inc.	Redleaf Group, Inc.	Redleaf Group, Inc.
20003529	Natural Wonders, Inc.	World of Science, Inc.	World of Science, Inc.
20003555	Signet Group plc	Marks & Morgan Jewelers, Inc.	Marks & Morgan Jewelers, Inc.
20003564	Oneida Ltd.	Glenn Simon	Sakura, Inc.
20003569	TechTronic Industries Co., Ltd.	Ryobi Limited	Ryobi America Corporation Ryobi North America, Inc., Ryobi Motor Products Corp.
20003626	Interfoods of America, Inc.	Household International, Inc.	RMS Family Restaurants, Inc.
20003678	Tyco International Ltd.	K2 Inc.	K2 Inc.
20003708	General Electric Company	Lunar Corporation	Lunar Corporation
20003715	GTCR Fund VI, LP.	Coram Healthcare Corporation	Curaflex Health Services, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—06/28/2000

20003391	DLJ Merchant Banking Partners II, LP.	E R D A, Inc.	E R D A, Inc.
20003541	Northern States Power Company (a Minnesota corporation).	Koch Industries, Inc.	Koch Power Louisiana, LLC
20003588	Sama Polymer Holding, Inc.	Blue Water Plastics, Inc.	Blue Water Plastics, Inc.
20003728	KKR 1996 Fund L.P.	NewSouth Holdings, Inc.	NewSouth Holdings, Inc.
20003729	First Union Corporation	NewSouth Holdings, Inc.	NewSouth Holdings, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—06/29/2000

20003372	Advance Voting Trust	MediaNews Group, Inc.	MediaNews Group, Inc.
20003438	Lafarge S.A.	The LTV Corporation	Presque Isle Corporation
20003732	Swiss Reinsurance Company	National Capital Financial Corporation	National Capital Financial Corporation
20003812	China Aviation Development Foundation.	Sino Swearingen Aircraft Corporation	Sino Swearingen Aircraft Corporation

TRANSACTIONS GRANTED EARLY TERMINATION—06/30/2000

20003515	Dean Foods Company	Land O'Lakes, Inc.	Land O'Lakes, Inc.
20003521	Cablevision systems Corporation	AT&T Corp.	MediaOne of Greater New York, Inc. MediaOne of New York, Inc.
20003522	AT&T Corp.	Cablevision Systems Corporation	Cablevision of Boston, Inc. Cablevision of Brookline, L.P. Cablevision of Massachusetts, Inc.
20003568	Quanta Services, Inc.	William G. Schroeder	Flowers Holding Company, Inc.
20003579	Compart S.p.A.	Kay Akey & Randolph S. Creech	Trust of Kay Akey Creech Dated April 2, 1997
20003613	Carlisle Companies Incorporated	UniTrek Corporation	UniTrek Corporation
20003623	Carl C. Iahn	CSX Corporation	CSX Corporation
20003627	Eramet SA	Special Metals Corporation	Special Metals Corporation
20003637	Cablevision Systems Corporation	AT&T Corp.	AT Home Corporation
20003649	Ronald S. Lauder	CFW Communications Company	CFW Information Services, Inc.
20003654	Marc Ladreit de Lacharriere	Celanese AG	Celanese Ltd.
20003673	Bollinger Shipyards, Inc.	Friede Goldman Halter, Inc.	Bludworth Bond Holding, Inc. Bludworth Bond LP Gretna Cleaning LLC

Trans No.	Acquiring	Acquired	Entities
20003692	Halter Calcasieu, LLC
20003700	Halter Gulf Repair, Inc.
.....	Marine Cleaning LLC
.....	InaCom Communications, Inc.
20003692	Meridian Automotive Systems, Inc.
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FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay, or, Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00-19351 Filed 7-31-00; 8:45 am]

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FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section

7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—07/03/2000			
20003349	Pixo, Inc.
20003533	Osicom Technologies, Inc.
20003575	Davenport Mammoet Heavy Transport Inc.
.....	Mamoet Transport B.V..
.....	Mamoet Transport USA Inc.
.....	Mamoet Western Inc.
20003674	Kaiser Engineers Corporation.
.....	Kaiser Group International, Inc.
20003680	Teledesic Corporation.
20003736	Coyote Springs 2, L.L.C.
20003749	Santa Fe Hotel Inc.
20003756	Cucina Holdings, Inc.
20003765	Chaparral City Water Company.
20003766	Cambridge International, Inc.

Trans No.	Acquiring	Acquired	Entities
20003776	AXA	Dominion Resources, Inc.	First Dominion Capital, L.L.C.
20003780	Quanta Services, Inc.	Christine Fluharty	MearsGroup, Inc.
20003782	North Castle Partners II, L.P	Kathleen McCarty-Carey	Travel Corporation of America, Inc.
20003783	North Castle Partners II, L.P	Betty Phillips	Travel Corporation of America, Inc.
20003784	Media General, Inc.	Kenneth R. Thomson	Thomson Newspapers Inc.
20003785	Wit Capital Group, Inc.	E*Offering Corp.	E*Offering Corp.
20003787	Inktomi Corporation	Walt Disney Company (The)	Ultraseek Corporation.
20003790	Stone & Webster, Incorporated (debt-or-in-possession).	Jacobs Engineering Group Inc.	Jacobs Engineering Group Inc.
20003792	Triump Partners III, L.P	Certus Corporation	Certus Corporation.
20003793	Giovanni Agnelli e C.S.a.p.az	Arjo Wiggins Appleton p.l.c	Arjo Wiggins Appleton p.l.c.
20003796	Anheuser-Busch Companies, Inc.	MB Acquisitions, Inc.	MB Acquisitions, Inc.
20003802	Warburg, Pincus Equity Partners, L.P	Coventry Health Care, Inc.	Coventry Health Care, Inc.
20003804	Bayer AG	Zambon S.p.A	Inpharzam International.
20003806	Bayer AG	Forest Laboratories, Inc.	Inpharzam International
20003808	Paul J. Dujardin	AT&T Corp.	Liberty Livewire Corporation.
20003810	Microchip Technology Incorporated	Matsushita Electric Industrial Co., Ltd	Matsushita Semiconductor Corporation of America.
20003813	Invensys plc	Baan Company N.V	Baan Company N.V.
20003814	Pegasus Related Partners, L.P	Code-Alarm, Inc.	Code-Alarm, Inc.
20003818	Clayton, Dubilier & Rice Fund VI Limited Partnership.	Guidance Solutions, Inc.	Guidance Solutions, Inc.
20003820	Ditech Communications Corporation ...	Atmosphere Networks, Inc.	Atmosphere Networks, Inc.
20003821	Cedar Creek Partners, LLC	Denis Siemer	V-Tek, Inc.
20003829	U.S. Propane, L.P	Heritage Holdings, Inc.	Heritage Holdings, Inc.
20003830	Heritage Propane Partners, L.P	U.S. Propane, L.P	U.S. Propane, L.P.
20003835	The Shaw Group Inc.	Stone & Webster, Incorporated (debt-or-in-possession).	Stone & Webster, Incorporated (debt-or-in-possession).
20003836	Stone & Webster, Incorporated (debt-or-in-possession).	The Shaw Group Inc.	The Shaw Group Inc.
20003858	Oak Hill Capital Partners, L.P	General Motors Corporation	TravelCenters of America, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/05/2000

20003689	Alloy Online, Inc.	Swander Pace Capital Fund, L.P	Kubic Marketing, Inc.
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TRANSACTIONS GRANTED EARLY TERMINATION—07/07/2000

20003595	A. Jerrold Perenchio	Entravision Communications Corporation.	Entravision Communications Corporation.
20003770	ADC Telecommunications, Inc.	Centigram Communications Corporation.	Centigram Communications Corporation.
20003786	Ralcorp Holdings, Inc.	Tomkins PLC	RHM Holdings (USA) Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/10/2000

20003648	Oak Investment Partners IX, Limited Partnership.	Cogent Communications, Inc.	Cogent Communications, Inc.
20003675	J.R. Simplot Company	ECO Soil Systems, Inc.	ECO Soil Systems, Inc.
20003688	Gabriel Communications, Inc.	State Communications, Inc.	State Communications, Inc.
20003693	Reed International P.L.C	Data West Corporation (d.b.a. CourtLink).	Data West Corporation (d.b.a. CourtLink)
20003694	Elsevier NV	Data West Corporation (d.b.a. CourtLink).	Data West Corporation (d.b.a. CourtLink)
20003695	Counsel Corporation	Star Telecommunications, Inc.	PT-1 Communications Inc.
20003707	Cox Enterprises, Inc.	Lewis W. Dickey, Sr	Midwestern Broadcasting Company, Inc.
20003711	Cox Enterprises, Inc.	Salem Communications Corporation ...	CXR Holdings, Inc.
20003712	Salem Communications Corporation ...	Cox Enterprises, Inc.	Cox Enterprises, Inc.
20003739	Choice One Communications Inc.	Ronald Vander Pol	US Xchange, Inc.
20003740	Ronald Vander Pol	Choice One Communications Inc.	Choice One Communications Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/03/2000

20003741	Adelphia Communications Corporation	Allegheny Energy, Inc.	Allegheny Hyperion Telecommunications, LLC
20003763	Bershire Hathaway Inc.	Credit Suisse Group	Republic Insurance Company
20003795	Jonathan Reeves	Sycamore Networks, Inc.	Sycamore Networks, Inc.
20003807	Advance Voting Trust	WeddingChannel.com, Inc.	WeddingChannel.com, Inc.
20003823	Compass Group PLC	Viad Corp.	ProDine, Inc.
20003824	Berkshire Hathaway Inc.	Assicurazioni Generali, A.p.A.	Viad Corp.
20003826	Green Equity Investors III, L.P.	Veterinary Centers of America	Unione Italiana Reinsurance Company of America
20003828	General Atlantic Partners 61, L.P.	Wit Capital Group, Inc.	Veterinary Centers of America
			Wit Capital Group, Inc.

Trans No.	Acquiring	Acquired	Entities
20003834	General Atlantic Partners 68, L.P.	Wit Capital Group, Inc.	Wit Capital Group, Inc.
20003839	GAP Coinvestment Partners II, L.P.	Wit Capital Group, Inc.	Wit Capital Group, Inc.
20003846	Cisco Systems, Inc.	Hewlett-Packard Company	Hewlett-Packard Company
20003855	ING Groep N.V.	Iowa Network Services, Inc.	Iowa Telecommunications Services, Inc.
20003866	Oak Hill Capital Partners, L.P.	TCA Acquisition Corporation	TCA Acquisition Corporation
20003872	B III Capital Partners, L.P.	The Penn Traffic Company	The Penn Traffic Company
20003873	WPS Resources Corporation	Cinergy Corp.	CinCapVI, LLC
20003881	UBS AG	IFX Corporation	IFX Corporation Tutopia.com, Inc.
20003884	General Motors Corporation	Conseco, Inc.	Consumer Acceptance Corporation
20003885	CMGI, Inc.	MediaBridge Technologies, Inc.	MediaBridge Technologies, Inc.
20003886	John Kent Cooke	Kenneth R. Thomson	Kenneth R. Thomson
20003888	Popular, Inc.	Oriental Financial Group, Inc.	Oriental Bank & Trust
20003895	Irwin Geduld	Merrill Lynch & Co., Inc.	Merrill Lynch & Co., Inc.
20003896	John E. Herzog	Merrill Lynch & Co., Inc.	Merrill Lynch & Co., Inc.
20003901	Hamphire Group, Limited	Martin Axman	Item-Eyes, Inc.
20003902	Accor S.A. (a French company)	WorldRes.com, Inc.	WorldRes.com, Inc.
20003906	Levine Leichtman Capital Partners, L.P.	Carole Little	California Fashion Industries, Inc.
20003907	Levine Leichtman Capital Partners, L.P.	Leonard Rabinowitz	California Fashion Industries, Inc.
20003908	Prosofttraining.com	R. William Pollock	ComputerPrep, Inc.
20003909	Fendi S.r.l.	Irwin Tauber	Condotti Shops of Houstons, Inc. Condotti Shops, Inc.
20003910	Kleiner Perkins Caufield & Buyers IX-A, L.P.	MyCFO, Inc.	MyCFO, Inc.
20003912	Erikem Luxembourg S.A.	Huron Tech Corp.	Huron Tech Corp.
20003913	Waste Corporation of America, Inc.	Waste Management, Inc.	Waste Management of Arkansas, Inc. Waste Management of Louisiana, L.L.C.
20003915	Coming Incorporated	NextPath Technologies, Inc.	Willow Systems, Inc.
20003919	Associates First Capital Corporation	Zale Corp.	Zale Funding Trust
20003920	Code Hennessy & Simmons IV, L.P.	John Mansfield Group PLC	Waddington North America, Inc.
20003932	Robert D. Phillips, Jr.	William Harkrider Trust	H&W Petroleum Company, Inc.
20003933	Code, Hennessy & Simmons III, L.P.	Best Distributing Co.	Best Distributing Co.
20003936	Robert D. Phillips, Jr.	Michael G. Barcum	Commercial Distributing, Inc.
20003937	Global Crossing Ltd.	American Communications Network, Inc.	American Communications Network, Inc.
20003940	Stephen Rosenberg	Extencicare Health Services, Inc.	Colonial Care Center Lexington Terrance
20003942	Thomas H. Lee Equity Fund III, L.P.	The New York Times Company	Lakeland Ledger Publishing Corporation NYT Florida Holdings, Inc. NYT Management Services The Houma Courier Newspaper Corporation
20003945	Berkshire Fund V, Limited Partnership	Casella Waste Systems, Inc.	Casella Waste Systems, Inc.
20003946	Koninlijke Ahold nv	James and Jayne Kennelly	GFG Foodservice, Inc. GFG Real Estate, LLC
20003954	Pearson plc	The Forum Corporation of North America	The Forum Corporation of North America
20003955	E*TRADE Group, Inc.	Wit Capital Group, Inc.	Wit Capital Group, Inc.
20003957	Yahoo! Inc.	eGroups, Inc.	eGroups, Inc.
20003958	Stonebridge Partners Equity Fund II, L.P.	Louis A. deAntonio and Linda J. deAntonio	Hitech Corporation
20003961	Jones Apparel Group, Inc.	Recovery Equity Investors II, L.P.	Victoria+Co. Ltd.
20003962	The PNC Financial Services Group, Inc.	The Bank of Tokyo-Mitsubishi, Ltd.	BTM Capital Corporation
20003969	UBS Capital Americas II, LLC	EYak, Inc.	EYak, Inc.
20003971	The Interpublic Group of Companies, Inc.	James E. San Filippo	Daytona Productions, Inc.
20003978	America Online, Inc.	America Online Latin America, Inc.	Waylon Promotions, Inc. America Online Latin America, Inc.
20003984	Vivendi, S.A.	Novartis AG	Novartis Pharmaceuticals Corporation, Novartis Corporation
20003992	MyPoints, Inc.	Cybergold, Inc.	Cybergold, Inc.
20003993	Baker Communications Fund II (QP), LP.	MimEcom Corporation	MimEcom Corporation
20003998	Welsh, Carson, Anderson & Stowe IX, L.P.	CFW Communications Company	CFW Communications Company
20004001	Technip	Stone & Webster, Incorporated (debt-or-in-possession).	Stone & Webster, Incorporated (debt-or-in-possession)

Trans No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—07/11/2000			
20003362	Public Service Company of New Mexico.	Tri-State Generation and Transmission Association, Inc.	Tri-State Generation and Transmission Association, Inc.
20003734	W.W. Grainger, Inc	Works.com Holding, Inc	Works.com Holding, Inc.
20003735	Hummer Winblad Venture Partners, III, L.P.	Works.com Holding, Inc.	Works.com Holding, Inc.
20003773	Jeffrey H. Smulyan	The Hearst Trust	Hearst-Argyle Properties, Inc.
20003778	Atlantic Equity Partners III, L.P	Morris Rochlin	Foamade Industries, Inc.
20003781	Christine Fluharty	Quanta Services, Inc	Quanta Services, Inc.
20003791	Francisco Partners, L.P	Advanced Micro Devices, Inc	BoldCo, Inc.
20003815	Adelphia Communications Corporation	Great Southern Printing and Manufacturing Company.	GS Communications, Inc.
20003831	VERITAS Software Corporation	Seagate Technology, Inc	Seagate Technology, Inc.
20003832	Paul G. Allen	FVC.COM, Inc	FVC.COM, Inc.
20003843	Rural LEC Acquisition, LLC	Sidney L. McDonald	Brindlee Mountain Telephone Company
20003847	Churchill Downs Incorporated	Richard L. Duchossois	Arlington International Racecourse, Inc.
20003848	Richard L. Duchossois	Churchill Downs Incorporated	Arlington Management Services, Inc.
20003850	Charterhouse Equity Partners III, L.P	Alliance One Incorporated	Turf Club of Illinois, Inc.
20003851	Triumph Group, Inc.	Loren L. Furnas	Alliance One Incorporated
			Airborne Nacelle Services, Inc.
			Airborne Supply, Inc.
			Chem-Fab Corporation
			FRS Partners d/b/a Master Tool Fabricators
20003852	Triumph Group, Inc.	Estate of Ronald E. Reagan	Airborne Nacelle Services, Inc.
			Airborne Supply, Inc.
			Chem-Fab Corporation
			FRS Partners d/b/a Master Tool Fabricators
20003854	AMEC PLC	Ogden Corporation	Ogden Environmental and Energy Services Co., Inc.
20003856	Rio Tinto Limited	North Limited	North Limited
20003857	Carlyle Bottling, L.L.C	Grant-Lydicke Beverage Company	Grant-Lydicke Beverage Company
20003859	Microsoft Corporation	Paul E. Tuttle, Jr	Tuttle Decision Systems, Inc.
20003860	Adelphia Communications Corporation	Benchmark Media, Inc	Benchmark Media, Inc.
20003863	GTCR Fund VII, L.P	Thomas M. Rouse	ACS Merchant Services, Inc.
20003864	Carlyle Partners III, L.P	The Reynolds and Reynolds Company	Dataforms, Inc.
			Information Solutions Group
20003865	Dimeling, Schreiber and Park Reorganization Fund, II.	Martin Color-Fi, Inc	Martin Color-Fi, Inc.
20003868	JSB Software Technologies pic	Mattel, Inc	CP Assets, Inc.
20003869	Advanced Radio Telecom Corp	Forest Communications, LLC	Forest Communications, LLC
20003871	EarthLink, Inc	OneMain. com, Inc	OneMain. com, Inc.
20003875	William H. Gates III	Craig O. McCaw	ICO-Teledesic Global Limited
20003880	Coolbrands International, Inc	Eskimo Pie Corporation	Eskimo Pie Corporation
20003883	EMSlcon Investments, LLC	Pensar Corporation	Pensar Corporation
20003900	New York-Presbyterian Healthcare System, Inc.	Westchester Square Medical Center, Inc.	Westchester Square Medical Center, Inc
20003911	James Clark	MyCFO, Inc.	MyCFO, Inc.
20003914	Berkshire Hathaway, Inc	Justin Industries, Inc	Justin Industries, Inc.
20003917	Pon Holdings B. V	Donald G. Moes	Bailey Forklift and Service Company, Ltd.
			Equipment Depot, Ltd., Equipment Depot of Dallas, Ltd.
20003923	Homestake Mining Company	Hadley Case and Elizabeth M. Case	Bargold Corporation
20003924	Hadley Case and Elizabeth M. Case	Homestake Mining Company	Homestake Mining Company
20003974	Respond Communicatins, Inc	iPCS, Inc	iPCS, Inc.
20003975	Geneseo Communications, Inc	iPCS, Inc	iPCS, Inc.
20003979	Riverview Media Corp	America Online Latin America, Inc	America Online Latin America, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/12/2000

20002161	Southern Union Company	Providence Energy Corporation	Providence Energy Corporation
20002164	Southern Union Company	Valley Resources, Inc	Valley Resources, Inc.
20002172	Southern Union Company	Fall River Gas Company	Fall River Gas Company
20003589	CP&L Energy, Inc	Florida Progress Corporation	Florida Progress Corporation
20003652	CSR Limited	F. Browne Gregg	FCS Holdings, Inc.
20003676	Impala S.A	Solvay S.A	Solvay, S.A.
20003677	Solvay, S.A	Impala S.A	Impala S.A.
20003737	Calpine Corporation	Panada Energy International, Inc	PLC II, LLC

Trans No.	Acquiring	Acquired	Entities
20003746	James O. Hayles, Jr. and Myna C. Hayles, (husband & wife).	Paul E. Brown	DigiPH Communication, Inc. DigiPH Holding Company, Inc. DiGiPH PCS, Inc.
20003747	James O. Hayles, Jr. and Myna C. Hayles, (husband & wife).	Mr. and Mrs. Darrell R. Brown, (husband & wife).	DigiPH Communication, Inc. DigiPH Holding Company, Inc. DiGiPH PCS, Inc.
20003771	Calpine Corporation	Michael P. Polsky	Polsky Energy Corporation
20003772	Michael P. Polsky	Calpine Corporation	Calpine Corporation
20003797	Gannett Co., Inc.	Kenneth R. Thomson	The Thomson Company, Inc.
20003798	Gannett Co., Inc.	Kenneth R. Thomson	The Thomson Corporation Thomson Newspapers Licensing Corporation Thomson Newspapers, Inc. TN Customer Holding Inc. TN Customer Holding LLC
20003799	Gannett Co., Inc.	Kenneth R. Thomson	Thomson Newspapers Inc.
20003800	Gannett Co., Inc.	Kenneth R. Thomson	Thomson Newspapers Inc.
20003801	Gannett Co., Inc.	Kenneth R. Thomson	The Thomson Company, Inc.
20003891	Cardinal Health, Inc.	Advanced Polymer Systems, Inc.	Advanced Polymer Systems, Inc.
20003931	Whitehall Associates, L.P.	Borden Chemicals and Plastics Limited Partnership.	Borden Chemicals and Plastics Limited Partnership
20003950	Noranda Inc.	Falconbridge Limited	Falconbridge Limited

TRANSACTIONS GRANTED EARLY TERMINATION—07/13/2000

20003925	Fremont Partners, L.P.	Triumph-California Limited Partnership	Precision Components Group, LLC
20003965	The James S. Copley Marital Trust	Kenneth R. Thomson	Thomson Holdings, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/14/2000

19994334	Joseph M. & Marie H. Field	Sinclair Broadcast Group, Inc.	Sinclair Broadcast Group, Inc.
20003640	Carlyle Partners III, L.P.	Northrop Grumman Corporation	Northrop Grumman Corporation
20003723	Phillips-Van Heusen Corporation	Vestar Capital Partners III, L.P.	Arrow Factory Stores Inc. Cluett Designer Group, Inc. Cluett, Peabody & Co., Inc. Consumer Direct Corporation Fidelity Leasing, Inc.
20003768	ABN AMRO Holding N.V.	Resource America, Inc.	America Online Latin America, Inc.
20003982	Itausa-Investmentos Itau, S.A.	America Online Latin America, Inc.	America Online Latin America, Inc.
20003994	Safeguard Scientifics, Inc.	Atlas Commerce, Inc.	Atlas Commerce, Inc.
20003999	Corus Group, plc	Kienle + Spiess Holding GmbH	Kienle + Spiess Stanz and Druckgiesswerk GmbH
20004002	Charterhouse Equity Partners III, L.P.	Cap Gemini, S.A.	Cap Gemini, S.A.
20004010	The BISYS Group, Inc.	Leonard L. Reynolds	Ascensus Insurance Services, Inc.
20004016	Jonathan Burgstone	Ariba, Inc.	Ariba, Inc.
20004017	Asif Satchu	Ariba, Inc.	Ariba, Inc.
20004019	Ariba, Inc.	SupplierMarket.com, Inc.	SupplierMarket.com, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/17/2000

20003934	Ferro Corporation	Solutia Inc.	Solutia Inc.
20003987	Harvest Partners III, L.P.	GEEG Acquisition Holdings Corp.	GEEG Acquisition Holdings Corp.
20004034	SSCI Investors LP	Croda International Plc	Croda International Plc
20004037	TTL Information Technology AG	Jay L. Wertheimer	BDI Distributors, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/18/2000

20001136	Citadel Communications Corporation	Robert G. Liggett, Jr.	Liggett Broadcast, Inc. LLJ Realty, LLC New Tower, Inc. Rainbow Radio, LLC
20003803	Community Newspaper Holdings, Inc.	Kenneth R. Thomson	The Thomson Company, Inc.
20003887	MKS Instruments, Inc.	Michael J. Dent	Spectra International, LLC
20003904	Microsoft Corporation	CAIS Internet, Inc.	CAIS Internet, Inc.
20003921	Lottomatica S.p.A.	Autotote Corporation	Autotote Corporation
20003929	Innoveda, Inc.	Hiroshi Hashimoto	PADS Software, Inc.
20003952	Hiroshi Hashimoto	Innoveda, Inc.	Innoveda, Inc.
20003991	Brokat AG	Putera Sampoerna	Gemstone Systems, Inc.
20004004	George G. Beasley	Gordon Gray 1956 Living Trust	Centennial Broadcasting, LLC
20004005	George G. Beasley	Gordon Gray, Jr.	Centennial Broadcasting LLC Centennial Broadcasting Nevada, Inc.
20004007	Wolseley Plc	Fairfax Lumber & Millwork Company, Incorporated.	Fairfax Lumber & Millwork Company, Incorporated

Trans No.	Acquiring	Acquired	Entities
20004013	Mobex Communications, Inc.	American Commercial Lines Holdings LLC.	Waterway Communications System LLC
20004023	Brokat AG	Blaze Software, Inc.	Blaze Software, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/19/2000

20003985	Partners Health Care Systems, Inc.	BWH Anesthesia Foundation, Inc.	BWH Anesthesia Foundation, Inc.
20003986	Partners Health Care System, Inc.	Brigham Medical Group Foundation, Inc.	Brigham Medical Group Foundation, Inc.
20004025	PA Holdings Limited	Hagler Bailly, Inc.	Hagler Bailly, Inc.
20004041	Grove Hill Medical Center, P.C.	PhyCor, Inc.	PhyCor of New Britain, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—07/20/2000

20003960	Enron Corp.	Columbia Energy Group	Columbia Energy Power Meeting Corporation Columbia Energy Retail Corporation Columbia Energy Services Corporation
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TRANSACTIONS GRANTED EARLY TERMINATION—07/21/2000

20003842	Maverick Tube Corporation	Prudential Steel Ltd.	Prudential Steel Ltd.
20003916	Bell Atlantic Corporation	Kevin Douglas	Blackwater Cellular Corporation
20003930	Jeffrey H. Smulyan	Sinclair Broadcast Group, Inc.	Sinclair Broadcast Group, Inc.
20003943	Fortmann-Druhe-Mertens GmbH Co. Betteliligungs KG.	Armstrong Holdings, Inc.	Armstrong World Industries, Inc.
20003956	Galen Holdings PLC	Warner Chilcott Public Limited Company.	The W.W. Henry Company Warner Chilcott Public Limited Company
20003967	Media/Communications Partners II Limited Partnership.	CoreComm Limited	CoreComm Limited
20004003	Covad Communications Group, Inc.	BlueStar Communications Group, Inc.	BlueStar Communications Group, Inc.
20004015	Gannett Co., Inc.	BrassRing, Inc.	BrassRing, Inc.
20004020	Kenny Industrial Services, L.L.C.	Canisco Resources, Inc.	Canisco Resources, Inc.
20004028	Macrovision Corporation	Matthew Christiano, Sallie J. Calhoun (husband & wife).	GLOBETrotter Software, Inc.
20004029	Matthew Christiano, Sallie J. Calhoun (husband & wife).	Macrovision Corporation	Macrovision Corporation
20004030	Aventis S.A.	Millennium Pharmaceuticals, Inc.	Millennium Pharmaceuticals, Inc.
20004031	Millenium Pharmaceuticals Inc.	Aventis S.A.	Aventis Pharmaceuticals Inc.
20004032	HMTF Equity Fund IV (1999), L.P.	ICG Communications, Inc.	ICG Communications, Inc.
20004035	Warburg, Pincus Ventures, L.P.	SkillSoft Corporation	SkillSoft Corporation
20004040	The May Department Stores Company	David's Bridal, Inc.	David's Bridal, Inc.
20004044	Weaverman SA	Robert E. Norman	Southwestern Wire Cloth, Inc.
20004048	Citizens Communications Company	Bell Atlantic Corporation	Contel of Minnesota, Inc., GTE West Coast Inc. GTE California Inc., GTE North Inc., GTE South Inc.
20004054	IFCO Systems N.V.	William Haines	Bromley Pallet Recyclers of Alabama LLC Bromley Pallet Recyclers of Ft. Meyers LLC Bromley Pallet Recyclers of Illinois LLC Bromley Pallet Recyclers of Indiana LLC Bromley Pallet Recyclers of Ohio LLC Bromley Pallet Recyclers of Tennessee LLC Bromley Pallet Recyclers, Inc Bromley Pallet Recyclers, LLC
20004058	Freedom Communications, Inc.	Kenneth R. Thomson	The Thomson Company, Inc.
20004059	Huhtamaki Van Leer Oyi	Graphic Packaging International Corporation.	Graphic Packaging Corporation
20004066	Raymond F. Kennedy	Masco Corporation	Masco Corporation
20004068	Inveded Catalyst Fund, L.P.	Softbank Corp.	Key3Media Group, Inc.
20004069	Bank of Montreal	Roger L. Freeman	Freeman Wellwood & Co., Inc.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Parcellena P.
Fielding, Contact Representatives,

Federal Trade Commission, Premerger
Notification Office, Bureau of

Competition, Room 303, Washington,
DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 00-19352 Filed 7-31-00; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 991 0308]

Establishments Delhaize Freres et Cie "Le Lion" S.A., et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 24, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Richard Parker, FTC/H-374, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326-2574.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 25, 2000), on the World Wide Web, at "<http://www.ftc.gov/ftc/formal.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania

Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible by a 3½-inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of the Complaint and Proposed Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has accepted for public comment from Establishments Delhaize Freres et Cie "Le Lion" S.A. ("Delhaize"), Delhaize America, Inc. ("Delhaize America"), and Hannaford Bros. Co. ("Hannaford") (collectively "the Proposed Respondents"), an Agreement Containing Consent Order ("the proposed consent order"). The Proposed Respondents have also reviewed a draft complaint that the Commission contemplates issuing. The proposed consent order is designed to remedy likely anticompetitive effects arising from the proposed Agreement and Plan of Merger between Delhaize, Delhaize America, and Hannaford to acquire all of the outstanding voting stock of Hannaford.

II. Description of the Parties and the Proposed Acquisition

Delhaize America, a North Carolina corporation, which operates most of its stores under the names of "Food Lion" and "Kash N' Karry," has over 1,200 supermarkets in the Southeast and Mid-Atlantic regions of the United States. Food Lion stores are situated in Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Kentucky, West Virginia, Pennsylvania, Delaware, and Maryland. Delhaize America's total sales for fiscal year 1999 were \$11 billion, with most generated by Food Lion stores' operations.

Hannaford, a publicly traded firm, is a Maine corporation with executive offices located in Scarborough, Maine. Approximately one-fourth of its common stock is owned by the Sobey family of Stellarton, Nova Scotia, Canada, and its various affiliated trusts and companies. Hannaford's total sales for fiscal year 1999 were \$3.46 billion. Hannaford operates about 100 stores under the "Hannaford" or "Shop 'N Save" banner in metropolitan New England and New York markets, plus about 50 stores under the "Hannford"

banner in Virginia and North Carolina markets. Hannaford entered the Southeast in the mid-1900's. The company's supermarkets are located in Maine, Massachusetts, New Hampshire, Vermont, New York, North Carolina, Virginia, and South Carolina.

Under the terms of the merger agreement, dated August 17, 1999, Delhaize America will acquire all of Hannaford's outstanding voting stock for approximately \$3.6 billion.

III. The Draft Complaint

The draft complaint alleges that the relevant line of commerce (*i.e.*, the product market) is the retail sale of food and grocery items in supermarkets. Supermarkets provide a distinct set of products and services for consumers who desire to one-stop shop for food and grocery products. Supermarkets carry a full line and wide selection of both food and nonfood products (typically more than 10,000 different stock-keeping units ("SKUs")), as well as a deep inventory of those SKUs in a variety of brand names and sizes. In order to accommodate the large number of food and nonfood products necessary for one-stop shopping, supermarkets are large stores that typically have at least 10,000 square feet of selling space. Supermarkets in North Carolina and Virginia, where the parties propose to divest supermarkets, tend to be at least 20,000 square feet, selling some 25,000-35,000 SKUs. So called "supercenters" operated by mass merchants such as WalMart, which have full-line supermarkets attached to general merchandise stores, are included in the product market.

Supermarkets compete primarily with other supermarkets that provide one-stop shopping for food and grocery products. Supermarkets base their food and grocery prices on the prices primarily of food and grocery products sold at nearby supermarkets. Supermarkets do not regularly price-check food and grocery products sold at other types of stores such as club stores or limited assortment stores, and do not significantly change their food and grocery prices in response to prices at other types of stores. Most consumers shopping for food and grocery products at supermarkets are not likely to shop elsewhere in response to a small price increase by supermarkets.

Retail stores other than supermarkets that sell food and grocery products, such as neighborhood "mom & pop" grocery stores, limited assortment stores, convenience stores, specialty food stores (*e.g.*, seafood markets, bakeries, etc.), club stores, military commissaries, and mass merchants, do

not effectively constrain most prices at supermarkets. These other stores operate significantly different retail formats and sell far more limited assortments of items or in the case of military commissaries are only open to a limited population base. None of these formats would constrain a price increase taken by supermarkets in the geographic markets.

The draft complaint alleges that the relevant sections of the country (*i.e.*, the geographic markets) in which to analyze the acquisition are the county or counties that include the following incorporated cities and towns. In Virginia the relevant geographic markets are: (a) a market consisting of the Richmond MSA; and (b) two markets that are part of the Norfolk-Virginia Beach-Newport News MSA (also known as the Tidewater area)—the Tidewater Peninsula (Newport News, Hampton and other portions of the peninsula north of the James River), and Southern Tidewater (including Norfolk, Virginia Beach, Portsmouth, and other parts of the MSA south of the James River). In North Carolina the relevant geographic markets are: (a) the Wilmington MSA; (b) Columbus County; (c) Duplin County; (d) Pender County; and (e) “greater Raleigh,” which includes Wake County, excluding the towns of Wake Forest, Rolesville, Zebulon, and Wendell.

Food Lion and Hannaford are actual and direct competitors in all of the above listed markets. The acquisition will eliminate that competition. The draft complaint alleges that each of the post merger markets would be highly concentrated, whether measured by the Herfindahl-Hirschman Index (commonly referred to as “HHI”) or by two-firm and four-firm concentration ratios.¹ The acquisition would substantially increase concentration in each market. Delhaize America and Hannaford would have a combined market share that ranges from 35 percent to 94 percent in each geographic market. The post-acquisition HHIs in the geographic markets range from 2562 points to 8817 points.

Concentration levels in the geographic markets alleged in the draft complaint would not be materially different even if club stores and limited assortment stores were included in the product market. The draft complaint further alleges that entry is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects in the relevant geographic markets.

The draft complaint alleges that Delhaize America’s proposed acquisition of all of the outstanding voting stock of Hannaford, if consummated, may substantially lessen competition in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by eliminating direct competition between supermarkets owned or controlled by Delhaize and supermarkets owned or controlled by Hannaford; by increasing the likelihood that Delhaize will unilaterally exercise market power; and by increasing the likelihood of, or facilitating, collusion or coordinated interaction among the remaining supermarket firms. Each of these effects raises the likelihood that the prices of food, groceries or services will increase, and the quality and selection of food, groceries or services will decrease, in the geographic markets alleged in the proposed complaint.

IV. Terms of the Agreement Containing Consent Order (“the proposed consent order”)

The proposed consent order will remedy the Commission’s competitive concerns about the proposed acquisition.² Under the terms of the proposed consent order, the Proposed Respondents must divest 37 identified Hannaford supermarkets and one identified Hannaford supermarket site in the relevant markets to three different up-front buyers. These buyers were selected by the parties and presented to the Commission for its review.

The Commission’s goal is evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. When divestiture is an appropriate remedy for a supermarket merger, the Commission requires the merging parties to find a buyer for the divested stores. A proposed buyer must not itself present competitive problems. For example, the Commission is less likely to approve a buyer that already has a large retail presence in the relevant geographic area than a buyer without such a presence. The Commission is preliminarily satisfied that the purchasers presented by the parties are well qualified to run the divested stores and that divestiture to these purchasers poses no separate competitive issues. Public comments may address the suitability of the

designated acquirers to acquire the supermarkets at issue.

The three up-front buyers and the number of stores each is acquiring are as follows: Kroger Co. (20 stores in Virginia), Lowe’s Food Stores, Inc. (12 stores and one site in North Carolina), and the Sylvester Group (five stores in North Carolina). Kroger, headquartered in Ohio, operates 2,300 supermarkets in 31 states. Kroger is buying the stores in the Richmond and Tidewater areas where it does not currently operate supermarkets. Lowe’s, a North Carolina corporation, operates 86 supermarkets throughout North Carolina and Virginia. Lowe’s is buying supermarkets in Wilmington and Raleigh. Lowe’s has a small presence in Raleigh, operating two supermarkets in that market, but operates no supermarkets in Wilmington. The Sylvester Group, a family-owned firm, operates 26 “Piggly Wiggly” supermarkets in rural North Carolina and will acquire five stores. The Sylvester Group operates one store in Duplin County, but the Hannaford it is acquiring is 20 miles from that store. A list of the specific supermarkets that Delhaize America and Hannaford must divest to each of the up-front buyers is attached at the end of this Analysis of the Draft Complaint and Proposed Consent Order to Aid Public Comment.

The proposed consent order requires that, no later than 10 days after the date on which the consent order becomes final, the Proposed Respondents shall divest these assets pursuant to and in accordance with their agreements with the buyers. The amount of time required for the divestitures varies with each of the buyers, based on the buyer’s need to convert large numbers of new stores into its operations.

The proposed consent order also requires the Proposed Respondents to include rescission provisions in its up-front buyer agreements that allow it to rescind the transaction(s) if the Commission, after the comment period, decides to reject any of the up-front buyers. If, at the time the Commission decides to make the proposed consent order final, the Commission notifies the Proposed Respondents that any of the up-front buyers to which they have divested a supermarket or site is not an acceptable acquirer, or that any up-front buyer agreement is not an acceptable manner of divestiture, then the Proposed Respondents must immediately rescind the transaction in question and divest those assets within three months after the proposed consent order becomes final. At that time, the Proposed Respondents must divest those assets only to an acquirer that receives the prior approval of the

¹ The HHI is a measurement of market concentration calculated by summing the squares of the individual market shares of all the participants.

² Acceptance of the proposed consent order for public comment terminates the Hart-Scott-Rodino waiting period and enables Delhaize America to immediately acquire the Hannaford voting stock.

Commission and only in a manner that receives the prior approval of the Commission. In the event that any Commission-approved buyer is unable to take or keep possession of any of the supermarkets identified for divestiture, a trustee that the Commission may appoint has the power to divest any additional ancillary assets and effect such arrangements as are necessary to satisfy the requirements of the proposed consent order.

The proposed consent order specifically requires the Proposed Respondents to: (1) maintain the viability, competitiveness and marketability of the assets to be divested; (2) not cause the wasting or deterioration of the assets to be divested; (3) not sell, transfer, encumber, or otherwise impair their marketability or viability; (4) maintain the supermarkets consistent with past practices; (5) use best efforts to preserve existing relationships with suppliers, customers and employees; and (6) keep the supermarkets open for business and maintain the inventory of products in each store consistent with past practice. The proposed consent order also contains more specific details relating to maintaining store operations.

The proposed consent order also enables the Commission to appoint a trustee to divest any supermarkets or site identified in the order that Delhaize America and Hannaford have not divested to satisfy the requirements of the proposed consent order. The proposed consent order also enables the Commission to seek civil penalties against Delhaize or Delhaize America for non-compliance with the proposed consent order.

For a period of 10 years from the date the proposed consent order becomes final, the Proposed Respondents are required to provide written notice to the Commission prior to acquiring supermarket assets located in, or any interest (such as stock) in any entity that owns or operates a supermarket located in the county or counties that include the relevant geographic areas. Proposed Respondents may not complete such an acquisition until they have provided information requested by the Commission. This provision does not restrict the Proposed Respondents from constructing new supermarket facilities on their own; nor does it restrict the Proposed Respondents from leasing facilities not operated as supermarkets within the previous six months.

For a period of 10 years, the proposed consent order also prohibits the Proposed Respondents from entering into or enforcing any agreement that restricts the ability of any person that

acquires any supermarket, any leasehold interest in any supermarket, or any interest in any retail location used as a supermarket on or after January 1, 1998, to operate a supermarket at that site if such supermarket was formerly owned or operated by the Proposed Respondents in the county or counties that include the relevant geographic areas. In addition, the Proposed Respondents may not remove fixtures or equipment from a store or property owned or leased in these counties that is no longer in operation as a supermarket, except (1) prior to a sale, sublease, assignment, or change in occupancy, or (2) to relocate such fixtures or equipment in the ordinary course of business to any other supermarket owned or operated by Proposed Respondents.

The Proposed Respondents are required to provide to the Commission a report of compliance with the proposed consent order within 30 days following the date on which they signed the proposed consent, every 30 days thereafter until the divestitures are completed, and annually for a period of 10 years.

V. Opportunity for Public Comment

The proposed consent order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed consent order and the comments received and will decide whether it should withdraw from the agreement or make the proposed consent order final.

By accepting the proposed consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed consent order, including the proposed sale of supermarkets to the various independent buyers listed below, in order to aid the Commission in its determination of whether to make the proposed consent order final. This analysis is not intended to constitute an official interpretation of the proposed consent order nor is it intended to modify the terms of the proposed consent order in any way.

Attachment—To Analysis of the Complaint and Proposed Consent Order to Aid Public Comment

Supermarkets Divested to Kroger

Hannaford Store No. 427, located at 9480 W. Broad St., Richmond, VA
Hannaford Store No. 474, located at 2738

Hannaford Plaza, Richmond, VA
Hannaford Store No. 477, located at 4816 S. Laburnum, Richmond, VA
Hannaford Store No. 478, located at 1356 Gaskins Rd., Richmond, VA
Hannaford Store No. 479, located at 3507 W. Cary St., Richmond, VA
Hannaford Store No. 480, located at 11400 Huguenot Rd., Midlothian, VA
Hannaford Store No. 481, located at 10921 Hull St., Midlothian, VA
Hannaford Store No. 484, located at 7951 Brook Rd., Richmond, VA
Hannaford Store No. 486, located at 12201 So. Chalkley, Chester, VA
Hannaford Store No. 490, located at 1601 Willow Lawn Dr., Richmond, VA
Hannaford Store No. 481, located at 14246 Warwick Blvd., Newport News, VA
Hannaford Store No. 432, located at 4692 Columbus St., Virginia Beach, VA
Hannaford Store No. 483, located at 4625 Shore Dr., Virginia Beach, VA
Hannaford Store No. 487, located at 1800 Republic Dr., Virginia Beach, VA
Hannaford Store No. 488, located at 101 Village Ave., York Co., VA
Hannaford Store No. 491, located at 2029 Lynnhaven Pkwy., Virginia Beach, VA
Hannaford Store No. 492, located at 205 East Little Creek Rd., Norfolk, VA
Hannaford Store No. 493, located at 5237 Providence Rd., Virginia Beach, VA
Hannaford Store No. 494, located at 5601 High St., Portsmouth, VA
Hannaford Store No. 496, located at King Richard Dr., Virginia Beach, VA

Supermarkets and Unbuilt Site Divested to Lowe's

Hannaford Store No. 410, located at 341 South College Rd., Wilmington, NC
Hannaford Store No. 415, located at 2316 North College Rd., Wilmington, NC
Hannaford Store No. 424, located at 930 High House Rd., Cary, NC
Hannaford Store No. 425, located at 9600 Strickland Rd., Raleigh, NC
Hannaford Store No. 426, located at 5309 Carolina Beach Rd., Wilmington, NC
Hannaford Store No. 428, located at 2900 Millbrook Rd., Raleigh, NC
Hannaford Store No. 436, located at 2900 Wake Forest Rd., Raleigh, NC
Hannaford Store No. 439, located at 1741 Walnut St., Cary, NC
Hannaford Store No. 441, located at 5051-3 Main St., Shallotte, NC
Hannaford Store No. 442, located at 4821 Long Beach Rd., S.E., Southport, NC
Hannaford Store No. 444, located at 3804 Oleander Dr., Wilmington, NC
Hannaford Store No. 455, located at 1405 W. Williams St., Suite A, Apex, NC Unbuilt Site, located at Ten Ten Road, Cary, NC

Supermarkets Divested to Ward Sylvester

Hannaford Store No. 402, located at 103 South Dudley Street, Burgaw, NC
Hannaford Store No. 408, located at 112A Village Road, Leland, NC
Hannaford Store No. 403, located at 107 South Pine Street, Warsaw, NC
Hannaford Store No. 420, located at 701B White's Crossing Shopping Center, Whiteville, NC
Hannaford Store No. 414, located at 604

Jefferson Street, Whiteville, NC

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 00-19350 Filed 7-31-00; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the "Schedule of Certified Interest Rates with Range of Maturities." This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 13⁷/₈% for the quarter ended June 30, 2000. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: July 25, 2000.

George Strader,

Deputy Assistant Secretary, Finance.

[FR Doc. 00-19295 Filed 7-31-00; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY-54-00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the

Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639-7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

Interstate Control of Communicable Diseases—New—The Food and Drug Administration (FDA) and Centers for Disease Control and Prevention (CDC) are planning to consolidate regulations related to controlling the spread of communicable diseases, thereby increasing their efficiency and effectiveness. Currently, the regulations contained in Part 1240 of Title 21, Code of Federal Regulations, which pertain to interstate control of communicable diseases, are administered by FDA. Regulations to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States are separately promulgated in Part 71 of Title 42, Code of Federal Regulations and are administered by the CDC. FDA is transferring to CDC certain sections of 21 CFR Part 1240 that relate to restrictions on interstate travel of any person who is in the communicable period of cholera, plague, smallpox, typhus, or yellow fever, or who, having been exposed to any such disease, is in the incubation period thereof.

Of the regulations being transferred, 21 CFR 1240.50 (Certain communicable diseases; special requirements), contains a requirement for reporting certain information to the Federal government. Specifically, this regulation requires any person who is in the communicable period of cholera, plague, smallpox, typhus or yellow fever, or who, having been exposed to any such disease, is in the incubation period thereof, to apply for and receive a permit from the Surgeon General or his authorized representative in order to travel from one State or possession to another.

Control of disease transmission within the States is considered to be the province of State and Local health authorities, with Federal assistance being sought by those authorities on a cooperative basis, without application of Federal regulations. The regulations formerly administered by FDA and being assumed by CDC were developed to facilitate Federal action in the event

of large outbreaks of disease requiring a coordinated effort involving several States, or in the event of inadequate local control. While it is not known whether, or to what extent, situations may arise in which these regulations would be invoked, contingency planning for domestic emergency preparedness is not uncommon. Should this occur, the reporting and record keeping requirements contained in the regulations will be used by CDC to carry out quarantine responsibilities as required by law.

Because of the uncertainty about whether a situation will ever arise precipitating CDC's enforcement of this rule, the following data collection burden estimate was prepared using the article Smallpox: An Attack Scenario, Tara O'Toole; Emerging Infectious Diseases, Vol. 5, No. 4, Jul-Aug 1999. This article describes the aftermath of a hypothetical domestic public health emergency situation involving smallpox virus. Of the potentially 15,000 persons infected with smallpox, the data collection assumes that one-fourth of these would apply for a permit to move from one state to another while in the communicable period of or having been exposed to smallpox, under the requirements set forth in 42 CFR 70.5. During such an event, it is assumed that an additional 2,000 persons not infected with smallpox may, as a precautionary measure, be required to obtain a State permit in order to move from one State to another, and that 8 States would be involved, under the requirements set forth in 42 CFR 70.3.

Further, it is assumed that during such an event, the master of a vessel or person in charge of a conveyance may be required to notify a local health authority of as many as 1,500 suspected cases of communicable disease developed and/or observed during transit, involving as many as 20 State or local jurisdictions, under the requirements set forth in 42 CFR 70.4.

In such a scenario, it would be likely that CDC would obtain for followup and analysis any information it requires to be delivered to a State or local health authority. Accordingly, an additional burden may be imposed upon said authority to copy and transmit that information. We assume that the burden would apply to 100% of the information submitted under both 42 CFR 70.3 and 42 CFR 70.4.

The annualized burden is estimated to be 3,600 hours.

Regulation	Respondent	Number of applicants	Number of responses per applicant	Average Burden per Response (in minutes)
42 CFR 70.3	Traveler	2,000	1	15/60
	Attending physician	2,000	1	15/60
42 CFR 70.3	State Health Authority	8	250	6/60
42 CFR 70.4	The Master of a vessel or person in charge of a conveyance engaged in interstate traffic.	1,500	1	15/60
42 CFR 70.4	State or local Health authority	20	75	6/60
41 CFR 70.5	Traveler	3,750	1	15/60
	Attending physician	3,750	1	15/60

Dated: July 26, 2000.
Nancy Cheal,
Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).
 [FR Doc. 00-19324 Filed 7-31-00; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Prevention Research Centers, Supplemental Awards under Program Announcement 98047

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting. This notice is published less than 15 days in advance of the meeting due to administrative delays.

NAME: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Prevention Research Centers, Supplemental Awards under Program Announcement 98047, meeting.

TIMES AND DATES: 1 p.m.–1:30 p.m., August 9, 2000 (Open). 1:30 p.m.–4 p.m., August 9, 2000 (Closed).

PLACE: The teleconference call will originate in the National Center for Chronic Disease Prevention and Health Promotion, Prevention Research Centers Program, Koger Center, Rhodes Building, 3005 Chamblee Tucker Rd., Atlanta, Ga 30341. Open access to the call will be available from 1–1:30 p.m. EDT, only. Interested parties may access the teleconference at 877/331-6867. The participant code is 949464.

STATUS: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4)

and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92-463.

MATTERS TO BE DISCUSSED: The meeting will include the review, discussion, and evaluation of supplemental award applications received in response to Program Announcement 198047.

CONTACT PERSON FOR MORE INFORMATION: David Elswick, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway m/s K30, Atlanta, GA., 30341. Telephone 770/488-5395, email dce1@cdc.gov.

The Director, Management Analysis and Services office has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 25, 2000.
Carolyn J. Russell,
Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.
 [FR Doc. 00-19462 Filed 7-28-00; 10:36 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D-1418]

International Conference on Harmonisation; Draft Guidance on Good Manufacturing Practice for Active Pharmaceutical Ingredients; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of a draft guidance entitled “Q7A ICH Good Manufacturing Practice Guide for Active Pharmaceutical Ingredients.” The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The document is intended to provide guidance regarding current good manufacturing practice (CGMP) for manufacturing of active pharmaceutical ingredients (API’s). The recommendations in the draft guidance are intended to assist in the manufacture of API’s that meet the standards for quality and purity they purport or are represented to possess.

DATES: Submit written comments by October 2, 2000.

ADDRESSES: Copies of the draft guidance are available on the Internet at <http://www.fda.gov/cder/guidance/index.htm>. Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-3844, FAX 888-CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests.

To facilitate the submission and review of comments on this draft guidance, the agency has developed two methods for submitting electronic comments. Interested persons may submit comments to the Dockets Management Branch (HFA-305) online or offline by downloading a comments template. Both methods are accessible on the FDA web site at <http://www.fda.gov/ohrms/dockets>. The agency encourages the submission of electronic comments and anticipates that widespread use of these methods

will increase the effectiveness of the guidance development process.

Interested parties may also submit written comments on the draft guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance:

Joseph X. Phillips, Central Regional Office, U.S. Customhouse, 2d and Chestnut Sts., rm. 900, Philadelphia, PA 19106, 215-597-0492, JPhillip@ora.fda.gov, or

Edwin Rivera, Center for Drug Evaluation and Research (HFD-320), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301-594-0095, Rivera@cder.fda.gov, or

John A. Eltermann, Center for Biologics Evaluation and Research (HFM-670), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301-827-3031, Eltermann@cber.fda.gov.

Regarding the ICH: Janet J. Showalter, Office of International Programs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and

Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In July 2000, the ICH Steering Committee agreed that a draft guidance entitled "Q7A ICH Good Manufacturing Practice Guide for Active Pharmaceutical Ingredients" should be made available for public comment. The draft guidance is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group.

In accordance with FDA's good guidance practices (GGP's) (62 FR 8961, February 27, 1997), this document is being called a guidance, rather than a guideline.

To facilitate the process of making ICH guidances available to the public, the agency is changing its procedure for publishing ICH guidances. Beginning April 2000, we will no longer include the text of ICH guidances in the **Federal Register**. Instead, we will publish a notice in the **Federal Register** announcing the availability of an ICH guidance. The ICH guidance will be placed in the docket and can be obtained through regular agency sources (see the **ADDRESSES** section). The draft guidance will be left in the original ICH format. The final guidance will be reformatted to conform to the GGP style before publication.

The draft guidance describes CGMP for the manufacturing of API's. The recommendations in the draft guidance are intended to assist in the manufacture of API's that meet the standards for quality and purity they purport or are represented to possess. The draft guidance is not intended to define registration or filing requirements or modify pharmacopeial requirements.

In the draft guidance, "manufacturing" includes all operations, and related controls, of receipt of materials, production, packaging, repackaging, labeling, relabeling, quality control, release, storage, and distribution of API's. The draft guidance applies to the manufacture of API's for use in human drug products, including sterile API's up to the point immediately before the

API is rendered sterile. The sterilization and aseptic processing of sterile API's are not covered by this draft guidance. CGMP's described in the draft guidance should be applied to the API manufacturing process beginning with the use of starting materials.

The draft guidance applies to API's that are manufactured by chemical synthesis, extraction, cell culture/fermentation, recovery from natural sources, or any combination of these processes. Intermediates and API's produced by recombinant DNA technology are covered provided they are proteinacious materials.

The draft guidance does not apply to vaccines, whole cells, whole blood and plasma, and API's derived from plasma fractionation, but does apply to API's produced using blood or plasma as raw materials. The draft guidance does not apply to cell substrates, medical gases, bulk-packaged drug products, and manufacturing/control aspects specific to radiopharmaceuticals.

This draft guidance represents the agency's current thinking on CGMP's for manufacturing of API's. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes, regulations, or both.

Interested persons may submit electronic comments to the Dockets Management Branch (<http://www.fda.gov/ohrms/dockets>) by October 2, 2000. Written comments also can be submitted on the draft guidance (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 26, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00-19332 Filed 7-27-00; 1:45 pm]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration

[Docket No. 00D-1385]

Draft Guidance for Industry on Refractive Implants: Investigational Device Exemptions (IDE's) and Premarket Approval Applications (PMA's); Availability
AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Refractive Implants: Investigational Device Exemptions (IDE's) and Premarket Approval Applications (PMA's)." This guidance is neither final nor in effect at this time. This draft guidance describes preclinical and clinical information that may be used in support of IDE's and PMA's.

DATES: Submit written comments concerning this guidance by October 30, 2000.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the draft guidance entitled "Refractive Implants: Investigational Device Exemptions (IDE's) and Premarket Approval Applications (PMA's)" to the Division of Small Manufacturers Assistance (HFZ-220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301-443-8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Ashley A. Boulware, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-2053.

SUPPLEMENTARY INFORMATION:
I. Background

FDA is announcing the availability of a draft guidance entitled "Refractive

Implants: Investigational Device Exemptions (IDE's) and Premarket Approval Applications (PMA's)." This draft guidance is intended to provide detailed information about the type of preclinical testing that can support both clinical investigations and marketing applications for new refractive implants. This draft guidance also is intended to provide the basic principles that should be applied in the conduct of a clinical study for refractive implants. Parts of this guidance document were discussed at an Ophthalmic Devices Panel meeting in October 1998.

II. Significance of Guidance

This guidance document represents the agency's current thinking on submissions for refractive implants. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive "Refractive Implants: Investigational Device Exemptions (IDE's) and Premarket Approval Applications (PMA's)" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800-899-0381 or 301-827-0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1145) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes "Refractive Implants: Investigational Device Exemptions (IDE's) and Premarket Approval Applications (PMA's)," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic

submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at <http://www.fda.gov/cdrh>. "Refractive Implants: Investigational Device Exemptions (IDE's) and Premarket Approval Applications (PMA's)" is available at <http://www.fda.gov/cdrh/ode/guidance/1145.pdf>.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance by October 30, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 17, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00-19337 Filed 7-31-00; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Substance Abuse and Mental Health Services Administration
Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification

Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This Notice is available on the internet at the following website: <http://www.health.org/workpl.htm>

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443-6014, Fax: (301) 443-3031.

Special Note: Please use the above address for all surface mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100-71, Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227. 414-328-7840/800-877-7016, (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901-794-5770/888-290-1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615-255-2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800-541-4931/334-263-5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229,

513-585-9000, (Formerly: Jewish Hospital of Cincinnati, Inc.) American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703-802-6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119-5412, 702-733-7866/800-433-2750

Baptist Medical Center—Toxicology Laboratory, 9601 I-630, Exit 7, Little Rock, AR 72205-7299, 501-202-2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215-2802, 800-445-6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800-876-3652/417-269-3093, (Formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38-H, P.O. Box 88-6819, Great Lakes, IL 60088-6819, 847-688-2045/847-688-4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941-561-8200/800-735-5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912-244-4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206-386-2672/800-898-0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215-674-9310

Dynacare Kasper Medical Laboratories,* 14940-123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780-451-3702/800-661-9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662-236-2609

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519-679-1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608-267-6267

Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102-5037, 860-545-6023

Integrated Regional Laboratories, 5361 NW 33rd Avenue, Fort Lauderdale,

FL 33309, 954-777-0018, 800-522-0232, (Formerly: Cedars Medical Center, Department of Pathology) Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504-361-8989/800-433-3823, (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913-888-3927/800-728-4064, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919-572-6900/800-833-3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 4022 Willow Lake Blvd., Memphis, TN 38118, 901-795-1515/800-233-6339, (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908-526-2400/800-437-4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715-389-3734/800-331-3734

MAXXAM Analytics Inc. *, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905-890-2555, (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419-383-5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651-636-7466/800-832-3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503-413-5295/800-950-5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612-725-2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661-322-4250/800-350-3515

NWT Drug Testing, 1141 E. 3900 South, Salt Lake City, UT 84124, 801-293-2300/800-322-3361, (Formerly: NorthWest Toxicology, Inc.)

- One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713-920-2559, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; (UTMB Pathology-Toxicology Laboratory)
- Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440-0972, 541-687-2134
- Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818-598-3110/800-328-6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)
- Pathology Associates Medical Laboratories, 11604 E. Indiana Ave., Spokane, WA 99206, 509-926-2400/800-541-7891
- PharmChem Laboratories, Inc., 1505-A O'Brien Dr., Menlo Park, CA 94025, 650-328-6200/800-446-5177
- PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Forth Worth, TX 76118, 817-215-8800, (Formerly: Harris Medical Laboratory)
- Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913-339-0372/800-821-3627
- Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 858-279-2600/800-882-7272
- Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770-452-1590, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
- Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 248-373-9120/800-444-0106, (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
- Quest Diagnostics Incorporated, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
- Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 972-916-3376/800-526-0947, (Formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)
- Quest Diagnostics Incorporated, 801 East Dixie Ave., Leesburg, FL 34748, 352-787-9006, (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)
- Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610-631-4600/800-877-7484, (Formerly: SmithKline Beecham Clinical Laboratories, Bio-Science Laboratories)
- Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800-669-6995/847-885-2010, (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)
- Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108-4406, 619-686-3200/800-446-4728, (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
- Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201-393-5590, (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
- Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818-989-2520/800-877-2520, (Formerly: SmithKline Beecham Clinical Laboratories)
- San Diego Reference Laboratory, 6122 Nancy Ridge Dr., San Diego, CA 92121, 800-677-7995/858-677-7970
- Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804-378-9130
- Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 254-771-8379/800-749-3788
- S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87108, 505-727-6300/800-999-5227
- South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219-234-4176
- Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602-438-8507/800-279-0027
- Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517-377-0520, (Formerly: St. Lawrence Hospital & Healthcare System)
- St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405-272-7052
- Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573-882-1273
- Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305-593-2260
- UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 818-996-7300/800-339-4299, (Formerly: Met-West-BPL Toxicology Laboratory)
- Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915-561-8851/888-953-8851

The following laboratory will be voluntarily withdrawing from the National Laboratory Certification Program on August 12, 2000:

Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410-536-13485, (Formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science) *

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the "Mandatory Guidelines for Workplace Durg Testing" (59 **Federal Register**, 9 June 1994, Pages 29908-29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 00-19213 Filed 7-31-00; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife

Notice of Availability of Draft Comprehensive Conservation Plan and Environmental Assessment for Necedah National Wildlife Refuge, Wood and Juneau Counties, Wisconsin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the Refuge Improvement Act of 1997, the U.S. Fish

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited Laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. Laboratories do.

and Wildlife Service (Service) has published the Necedah National Wildlife Refuge (Refuge) Draft Comprehensive Conservation Plan and associated Environmental Assessment. The Draft Plan describes how the Service intends to manage the Refuge for the next 10–15 years.

DATES: Submit written comments by August 25, 2000. All comments should be addressed to: Tom Magnuson, U.S. Fish and Wildlife Service, 1 Federal Drive, Room 530, Fort Snelling, Minnesota 55111. Comments may also be submitted through the Service's regional Web site at: <http://midwest.fws.gov/planning>.

ADDRESSES: A copy of the Draft Comprehensive Conservation Plan and Environmental Assessment, or a summary of the combined document, may be obtained by writing to Tom Magnuson at the address above or by placing a request through the Web site.

FOR FURTHER INFORMATION CONTACT: For additional information contact Larry Wargowsky, Necedah National Wildlife Refuge, W7996 20th Street West, Necedah, Wisconsin 54646–7531. Phone: 608–565–2551; E-Mail: larry_wargowsky@fws.gov

SUPPLEMENTARY INFORMATION: The Refuge was established in 1939 as a refuge and breeding ground for migratory birds and for use as an inviolate sanctuary for migratory birds. It is located in central Wisconsin, about 180 miles southeast of Minneapolis, Minnesota, 150 miles northwest of Milwaukee, Wisconsin, and about four miles west of Necedah, Wisconsin.

The history of the Refuge dates back to the early 1930s when the U.S. Government acquired 114,964 acres of land in Juneau, Wood, Monroe, and Jackson counties, Wisconsin, to assist farmers living within the area and to develop the area for wildlife.

Situated on the bed of former Glacial Lake Wisconsin and the Great Central Wisconsin Swamp, land in and around the Refuge was once a vast peat bog with some low wooded islands and savannas; the higher sand ridges were occupied by mature stands of pines and other species. Today, the Refuge consists of 43,696 acres of wetlands and open water areas; pine, oak, and aspen forests; grasslands and rare savannas, all of which support a rich diversity of fish, wildlife, and plant populations. Over 230 different species of birds have been observed on the Refuge since its inception. The Refuge also supports several threatened, endangered, and rare species like the Karner blue butterfly, Blanding's turtle, and the eastern massasauga rattlesnake, as well as

resident game species including the white-tailed deer, wild turkey, and ruffed grouse. In addition, nearly 150,000 people visit the Refuge annually to hunt, fish, hike, observe and photograph wildlife, pick berries, or relax among the trees, wetlands, and wildlife.

Management of the Refuge is carried out by a multi-disciplined team of biologists, technicians, and support staff who are recognized leaders in their fields. Protecting, restoring, and maintaining biologically diverse and productive wetlands, forest land, grasslands, and savannas for fish and wildlife resources are key indicators of management success. Management tools involve water level manipulation, prescribed burning, timber harvest, land acquisition, and public outreach and environmental education. Scientifically rigorous monitoring and research activities create the foundation from which quality management decisions are made. Cooperative working relationships with universities, other Federal agencies, the State of Wisconsin, elementary and secondary educational institutions, and non-governmental organizations are key assets to management success.

Dated: July 26, 2000.

Marvin E. Moriarty,

Acting Regional Director.

[FR Doc. 00–19325 Filed 7–31–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–8103–4]

Alaska Native Claims Selection; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Doyon, Limited, notice of which was published in the **Federal Register**, 44 Fed. Reg. 28110, 28111 (May 14, 1979), is modified to remove EIN 4 C3, D1, D9, within Sec. 4, T. 29 S., R. 13 E., Kateel River Meridian, Alaska.

Notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the

decision, an agency of the Federal government or regional corporation, shall have until August 31, 2000 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed with the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Nora A. Benson,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 00–19327 Filed 7–31–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–00–1220–HQ]

Notice of Availability of the Record of Decision for the Soledad Canyon Sand and Gravel Mining Project

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, Title 40 Code of Federal Regulations Parts 1505 and 1506, and BLM Handbook H–1790–1, notice is hereby given that the U.S. Department of the Interior's Bureau of Land Management (BLM) has prepared the Record of Decision for the Soledad Canyon Sand and Gravel mining Project. It is the BLM's decision to approve the Reduced North Fines Storage Alternative with additional environmental modifications as described in the Final Environmental Impact Statement published by BLM on June 2, 2000.

This decision directs the manner in which the Transit Mixed Concrete Company (TMC) is authorized to extract a total of 78 million tons of material to produce and sell approximately 56.1 million tons of sand and gravel in the Soledad Canyon area of northeastern Los Angeles County, California over a 20-year period in conformance with Federal contracts issued by BLM to TMC in 1990.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary within 30 days from the date of this notice, in accordance with the regulations at Title 43 of the Code of Federal Regulations Part 4. For more information, contact BLM's Palm Springs-South Coast Field Office at the address and phone number listed below.

SUPPLEMENTARY INFORMATION: The Record of Decision is online at www.ca.blm.gov. Printed copies can also be obtained from the BLM in Palm Springs by calling (760) 251-4810 or by writing to the Bureau of Land Management, Palm Springs-South Coast Field Office, 690 W. Garnet, North Palm Springs, CA 92258, Attn: Elena Misquez.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez at (909) 697-5220, BLM California Desert District External Affairs.

Dated: July 25, 2000.

Tim Salt,

District Manager.

[FR Doc. 00-19216 Filed 7-31-00; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-933-1430-ET; IDI-15630 et al.]

Public Land Order No. 7437; Modification and Partial Revocation of Executive Orders; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This action corrects Public Land Order No. 7437, 65 FR 15917-15918, published March 24, 2000.

On page 15917, second column under T. 9 S., R. 16 E., which read "Sec. 16, lots 7 to 16 inclusive." is hereby corrected to read "Sec. 16, lots 7 to 10, and 12" and under T. 10 S., R. 18 E., which reads "Sec. 3, lot 9, and SW $\frac{1}{4}$ NW $\frac{1}{4}$." is hereby corrected to read "Sec. 3, lot 9, and SW $\frac{1}{4}$ SW $\frac{1}{4}$."

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 00-19326 Filed 7-31-00; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of an information collection (OMB Control Number 1010-0110).

SUMMARY: To comply with the Paperwork Reduction Act of 1995, we are soliciting comments on an

information collection titled, Training Evaluation and Outreach Forms. We will submit an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval after this comment period closes.

DATES: Submit written comments on or before October 2, 2000.

ADDRESSES: Submit written comments to David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A-613, Denver Federal Center, Denver, Colorado 80225.

PUBLIC COMMENT PROCEDURE: Submit your comments to the offices listed in the **ADDRESSES** section, or email your comments to us at RMP.comments@mms.gov. Include the title of the information collection and the OMB Control Number in the "Attention" line of your comment; also, include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Mr. Guzy at (303) 231-3432, FAX (303) 231-3385. We will post all comments at <http://www.rmp.mms.gov> for public review.

Also, contact Mr. Guzy to review paper copies of the comments. The comments, including names and addresses of respondents, are available for public review during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the public record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231-3046, FAX (303) 231-3385, email Dennis.C.Jones@mms.gov. A copy of the

ICR will be available to you without charge upon request.

SUPPLEMENTARY INFORMATION:

Title: Training Evaluation and Outreach Forms.

OMB Control Number: 1010-0110.

Bureau Form Number: n/a.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian Lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. We perform the royalty management functions and assist the Secretary in carrying out DOI's Indian trust responsibility.

We provide training and outreach to our constituents to facilitate their compliance with laws and regulations and to ensure that constituents are well informed. We use training and outreach evaluation questionnaires to improve on our training and outreach efforts and to assure its continued relevance. We present training sessions to the oil and gas and solid minerals reporters on various aspects of royalty reporting, production reporting, and valuation. We also provide outreach sessions to individual Indian minerals owners, Indian Tribes, and the Bureau of Indian Affairs on Indian royalty management issues. Additionally, we provide training sessions to our financial and systems contractors and State and Tribal auditors.

During the last few minutes of each training or outreach session, RMP asks participants to complete and return evaluation questionnaires. Participant response is voluntary. Some questions are uniform across all of the evaluation questionnaires; however, we also ask questions specific to each type of training or outreach or specific to our audiences. Proprietary information is not requested, and there are no questions of a sensitive nature included in this information collection.

Frequency: On occasion.

Estimated Number and Description of Respondents: 1800 industry representatives, State auditors, Indian auditors, Indian Tribes, and Indian allottees, MMS contractors, and MMS employees.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 126 hours.

Estimated Annual Reporting and Recordkeeping "Non-hour Cost" Burden: n/a.

Comments: The Paperwork Reduction Act, 44 U.S.C. 3506(c)(2)(A), requires each agency "to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting "non-hour cost" burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens and need to know if there are other costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities.

Your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

The Paperwork Reduction Act of 1995 provides that an agency shall not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Dated: July 25, 2000.

R. Dale Fazio,

Acting Associate Director for Royalty Management.

[FR Doc. 00-19340 Filed 7-31-00; 8:45 am]

BILLING CODE 4310-MR-W

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of an information collection (OMB Control Number 1010-0042).

SUMMARY: To comply with the Paperwork Reduction Act of 1995, we are soliciting comments on an information collection titled, Application for the Purchase of Royalty Oil. We will submit an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval after this comment period closes.

DATES: Submit written comments on or before October 2, 2000.

ADDRESSES: Submit written comments to David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A-613, Denver Federal Center, Denver, Colorado 80225.

PUBLIC COMMENT PROCEDURE: Submit your comments to the offices listed in the **ADDRESSES** section, or email your comments to us at RMP.comments@mms.gov. Include the title of the information collection and the OMB Control Number in the "Attention" line of your comment; also, include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Mr. Guzy at (303) 231-3432, FAX (303) 231-3385. We will post all comments at <http://www.rmp.mms.gov> for public review.

Also, contact Mr. Guzy to review paper copies of the comments. The comments, including names and addresses of respondents, are available for public review during regular business hours at our offices in Lakewood, Colorado. Individual

respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the public record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231-3046, FAX (303) 231-3385, email

Dennis.C.Jones@mms.gov. A copy of the ICR will be available to you without charge upon request.

SUPPLEMENTARY INFORMATION:

Title: Application for the Purchase of Royalty Oil.

OMB Control Number: 1010-0042

Bureau Form Number: n/a.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian Lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. We perform the royalty management functions and assist the Secretary in carrying out DOI's Indian trust responsibility.

"Royalty oil" is crude oil produced from leased Federal lands, both onshore and offshore, in instances in which the Government exercises the option to accept a lessee's royalty payment in oil rather than in money. Title to the oil is transferred to the Government and then sold to an eligible refiner. When the Secretary determines that small refiners do not have access to adequate supplies of oil, the Secretary may dispose of any oil taken as royalty by conducting a sale of such oil, or by allocating it to eligible refiners.

When the Secretary decides to offer royalty oil taken in kind for sale to eligible refiners, MMS will publish a Notice of Availability of Royalty Oil in

the **Federal Register**, and other printed media, when appropriate. The Notice includes administrative details concerning the application, allocation, and contract award process for the royalty oil. The Application for the Purchase of Royalty Oil, Form MMS-4070, is submitted by refiners interested in purchasing royalty oil in accordance with instructions in the Notice, and with instructions issued by MMS for completion of the form. The information collected is used by MMS to determine if the applicant meets eligibility requirements to contract to purchase royalty oil. Information collected also provides a basis for the allocation of available royalty oil among qualified refiners.

Responses to this information are necessary for refiners to participate in royalty oil sales. Proprietary information that is submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: On occasion.

Estimated Number and Description of Respondents: 25 small oil refiners.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 25 hours.

Estimated Annual Reporting and Recordkeeping "Non-hour Cost" Burden: n/a.

Comments: The Paperwork Reduction Act, 44 U.S.C. 3506(c)(2)(A), requires each agency "to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting "non-hour cost" burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens and need to know if there are other costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the

information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities.

Your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

The Paperwork Reduction Act of 1995 provides that an agency shall not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Dated: July 25, 2000.

R. Dale Fazio,

Acting Associate Director for Royalty Management.

[FR Doc. 00-19341 Filed 7-31-00; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of Casa Grande Ruins National Monument, National Park Service, Coolidge, AZ

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of Casa Grande Ruins National Monument, National Park Service, Coolidge, AZ, that meet the definition of "sacred object" under Section 2 of the Act. This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park unit that has control or possession of these Native American cultural items. The Assistant Director, Cultural Resources Stewardship and Partnerships, is not responsible for the determinations within this notice.

The approximately 203 cultural items comprise an ethnographic collection utilized by the Tohono O'odham Nation of Arizona for the Vikita ceremony. These cultural items are mostly fashioned from wood, many are painted, and include: 5 staffs, 14 spears, 12 bows, 59 sticks, 11 bullroarers, 50 prayersticks, 1 feather, 32 arrows, 1 mask, 1 kilt, 1 garter, 1 jar, 1 hide, 1 bundle, 3 unidentified ceremonial objects, 7 pieces of wood, 2 effigies, and 1 bundle with a feather. This collection of cultural items has been recorded in several anthropological documents as originating from the Tohono O'odham village of Santa Rosa and as having been used in the Vikita ceremony.

During the summer of 1922 or 1923, a trader told Frank Pinkley and George Boundey that a large amount of old Tohono O'odham ceremonial materials were cached northeast of the village of Santa Rosa (Gu Achi). About a mile and a half from this village, Pinkley and Boundey located a brush enclosure. Within the immediate vicinity of this enclosure, Pinkley and Boundey found a number of cultural items. Some of these items were found under scrub mesquite bushes, while others were deposited in the branches of trees. Local Tohono O'odham individuals indicated that these cultural items were used as part of a Vikita ceremony.

According to a 1937 article by Charles R. Steen, the dance at this enclosure was probably held in 1911. Several facts suggest that the Tohono O'odham intended that the ceremonial equipment collected by Pinkley and Boundey at the enclosure should only be used once, and that when the time for another ceremony arrived that a new enclosure and new ceremonial accoutrements for the ceremonies were to be prepared. The enclosure had not been kept in repair and had apparently seen no further use, the costumes and cultural items carried by the ceremony's participants had been discarded, and at least two Vikita ceremonies had been held since the 1911 Vikita event. Steen's article also noted that Tohono O'odham individuals expressed their satisfaction with the care the above-described cultural items received while in the possession of Pinkley.

In 1940, Pinkley donated the previously described cultural items to Casa Grande Ruins National Monument. The cultural items were subsequently accessioned into the Monument's collection and are now stored at the Western Archeological and Conservation Center in Tucson, Arizona.

On August 13, 1998, the National Park Service convened a consultation

meeting with approximately 45 members of the Tohono O'odham Nation of Arizona, which included Tohono O'odham elders, religious leaders and the Cultural Affairs Manager. National Park Service representatives attending this meeting included the Superintendent of Casa Grande Ruins National Monument and the Repository Chief of the Western Archeological Conservation Center. After the consultants viewed the entire Vikita-related collection, the Tohono O'odham representatives indicated that the above described cultural items were important ceremonial objects needed by traditional religious leaders for the practice of traditional Native American religions by their present-day adherents.

According to documents received from the Tohono O'odham Nation's Cultural Affairs Office in June 2000, the above-described cultural items were never intended to leave the land where they were left, and Tohono O'odham religious leaders will determine how they will be used in the future.

Based on the above-mentioned information, the Casa Grande Ruins National Monument Superintendent determined that, pursuant to 43 CFR 10.2 (d)(3), the approximately 203 cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. The Casa Grande Ruins National Monument Superintendent also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these cultural items and the Tohono O'odham Nation of Arizona.

This notice has been sent to officials of the Tohono O'odham Nation of Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these cultural items should contact Don Spencer, Superintendent, Casa Grande Ruins National Monument, 1100 Ruins Drive, Coolidge, AZ, 85228, telephone (520) 723-3172, before August 31, 2000. Repatriation of these cultural items to the Tohono O'odham Nation of Arizona may begin after that date if no additional claimants come forward.

Dated: July 21, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00-19293 Filed 7-31-00; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of Salinas Pueblo Missions National Monument, National Park Service, Mountainair, NM

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Salinas Pueblo Missions National Monument, National Park Service, Mountainair, NM. This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park unit that has control or possession of these Native American human remains and associated funerary objects. The Assistant Director, Cultural Resources Stewardship and Partnerships, is not responsible for the determinations within this notice.

A detailed assessment and inventory of the human remains and associated funerary objects was made by National Park Service professional staff in consultation with representatives of the Pueblo of Acoma, New Mexico; Hopi Tribe of Arizona; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Ysleta del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of the Piro-Manso-Tiwa, a non-Federally recognized Indian group, were also present at one of the consultation meetings.

In 1923, human remains representing 43 individuals were recovered during legally authorized excavations conducted by Dr. Edgar L. Hewett, School of American Research, at the Pueblo de las Humanas complex, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

On the basis of architectural, osteological, archeological, and historical evidence, this site, which is associated with Mound 7 of the Pueblo de las Humanas complex, and these human remains are dated to Pueblo IV and Pueblo V (A.D. 1300-1672).

In 1956, human remains representing 99 individuals were recovered from 58

burials during a legally authorized National Park Service stabilization project conducted at the San Isidro Mission Church's Campo Santo Catholic Cemetery. This site is located at the Pueblo de las Humanas complex, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

An osteological analysis of the 99 individuals recovered from this site (Campo Santo) identified 95 of them as Jumano. Based upon architectural, archaeological, biological (cranial morphology), historical, and Church documentation evidence, San Isidro's cemetery (Campo Santo) was determined to have been in use from 1629-1672; therefore, this site and these human remains are dated to the Pueblo IV and Pueblo V (A.D. 1300-1672) periods.

In 1962, human remains representing 31 individuals were recovered during legally authorized National Park Service excavations conducted at San Buenaventura church, which is also situated within the Pueblo de Las Humanas complex, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

Based upon osteological, archeological, and historical evidence, the 31 individuals recovered from San Buenaventura were identified as Jumano. On the basis of historical evidence and Church documents, San Buenaventura is known to have been the second and largest of the Spanish mission churches constructed at Pueblo de las Humanas, Gran Quivira. The convento complex was in use, although the mission church is believed to have never fully been completed. Based on osteological, historical, and Church documentation evidence, this site (San Buenaventura) and these human remains are dated to the Pueblo IV (A.D. 1300-1600) and Pueblo V (A.D. 1600-1672) periods.

In 1951, human remains representing five individuals were recovered during legally authorized National Park Service excavations at the Pueblo de Las Humanas complex's House A, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

Based on architectural, archeological, historical, and Church documentation evidence, this site, (House A) and these human remains are dated to the Pueblo IV (A.D. 1300-1600) and Pueblo V (A.D. 1600-1672) periods.

Between 1965-67 and in 1973, human remains representing 716 individuals

were recovered during legally authorized National Park Service excavations at Mound 7 of the Pueblo de Las Humanas complex, a site located within Monument boundaries. No known individuals were identified. The 587 associated funerary objects include 146 beads, 1 scraper, 8 awls, 2 tinklers, 3 bifaces, 17 pendants, 2 ornaments, 3 jars, 26 tessera, 5 bowls, 1 pitcher, 1 pipe, 5 pieces of shell, 4 bone artifacts, 1 flute, 1 feather-wrapped blanket, 2 rubbing stones, 2 hair samples, 12 projectile points, 1 ground stone artifact, 2 effigies, 2 crystals, 6 pieces of pigment, 3 gizzard stones, 2 textiles, 1 drill, 1 eggshell, 2 pieces of cordage, 1 knife, 1 piece of basketry, 1 fiber knot, 1 flake tool, 1 bean, 23 bags of faunal specimens, 121 bags of corn cobs and corn kernels, 173 ceramic sherds, 2 pieces of metal, and 1 metal bar.

Based on osteological, architectural, and archeological evidence, as well as the associated funerary objects, Mound 7 has been identified as a Jumano culture puebloan structure. Therefore, this site (Mound 7), these human remains, and the associated funerary objects are dated to the Pueblo IV (A.D. 1300-1600) and Pueblo V (A.D. 1600-1672) periods.

Between 1984-1986, human remains representing 35 individuals were recovered during legally authorized excavations conducted by the University of Iowa at a midden site south of the Pueblo de Las Humanas complex's Mound 17, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

On the basis of osteology, non-funerary cultural items (ceramics, projectile points, etc.), archeological evidence, historical information, and the association with the Pueblo de Las Humanas complex, this site (midden site) and these human remains are dated to the Pueblo IV (A.D. 1300-1600) and Pueblo V (A.D. 1600-1672) periods.

In 1960, human remains representing one individual were recovered during legally authorized National Park Service excavation conducted in the Monument's residential compound, a site located within Monument boundaries. No known individual was identified. No associated funerary objects are present.

Based on osteological information, archeological evidence, and the proximity of the recovery location to previously dated structures, this site (residential compound) and these human remains have been determined to be likely related to the Jumano culture and are dated to Pueblo I-III (A.D. 900-1300).

In 1964, human remains representing one individual were recovered during a legally authorized National Park Service excavation, at GRQU #2, a site located within Monument boundaries. No known individual was identified. No associated funerary objects are present.

Based on archeological evidence and architecture, this site (GRQU #2), a pithouse, has been determined to be related to the Jumano culture. Further, this site (GRQU #2) and these human remains have been dated to Pueblo I-III (AD 900-1300).

In 1984, human remains representing one individual were recovered during a legally authorized drainage control project conducted at the mission of San Gregorio, a site within Monument boundaries. No known individual was identified. No associated funerary objects are present.

On the basis of archeological context and architectural evidence, this site (San Gregorio) and these human remains are dated to Pueblo IV-V (A.D. 1300-1673).

At an unknown date, human remains representing three individuals were recovered from the general area of Pueblo de las Humanas, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

Based upon archeological evidence, historical information, and their association with the Pueblo de Las Humanas complex, these human remains have been determined to be related to the Jumano culture and are dated to the Pueblo IV (A.D. 1300-1600) and Pueblo V (A.D. 1600-1672) periods.

At an unknown date, human remains representing one individual were recovered from the general area of Abo Pueblo, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

On the basis of archaeological evidence, historical information and their association with Abo Pueblo, these human remains have been determined to be related to the Tompiro culture and are dated to Pueblo IV-V (A.D. 1300-1673).

According to anthropological information, the Jumano culture is considered to be a blend of both Anasazi and Mogollon cultures, which eventually shifted through time from Mogollon to Rio Grande Anasazi characteristics. Relying upon archeological, historical, architectural, geographical, oral tradition, ethnographic, biological, historical, and expert opinion evidence, it has been determined that the above-described human remains and associated funerary

objects are culturally affiliated with the Pueblo of Acoma, Hopi Tribe, Pueblo of Isleta, Pueblo of Jemez, Pueblo of Sandia, Pueblo of Santo Domingo, Pueblo of Taos, Ysleta del Sur Pueblo, and the Zuni Tribe of the Zuni Reservation, and the non-Federally recognized Piro-Manso-Tiwa Indian group.

Based on the above-mentioned information, the Salinas Pueblo Missions National Monument Superintendent determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of approximately 932 individuals of Native American ancestry. The Salinas Pueblo Missions National Monument Superintendent also determined that, pursuant to 43 CFR 10.2 (d)(2), the 587 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, the Salinas Pueblo Missions National Monument Superintendent determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Pueblo of Acoma, New Mexico; Hopi Tribe of Arizona; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Ysleta del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico. In addition, the National Park Service also has determined that a cultural affiliation exists between these human remains and associated funerary objects and the Piro-Manso-Tiwa, a non-Federally recognized Indian group.

This notice has been sent to officials of the Pueblo of Acoma, New Mexico; the Caddo Indian Tribe of Oklahoma; Hopi Tribe of Arizona; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma; Ysleta del Sur Pueblo of Texas; Zuni Tribe of the Zuni Reservation, New Mexico; and Piro-Manso-Tiwa, a non-Federally recognized Indian group. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and

associated funerary objects should contact Glenn M. Fulfer, Superintendent, Salinas Pueblo Missions National Monument, P.O. Box 517, Mountainair, NM 87036, telephone (505) 847-2585 Extension 25, before August 31, 2000. Repatriation of the human remains will begin after that date if no additional claimants come forward.

Dated: July 21, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00-19291 Filed 7-31; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains in the Possession of Salinas Pueblo Missions National Monument, Mountainair, NM

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of the Salinas Pueblo Missions National Monument, National Park Service, Mountainair, NM. This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships, is not responsible for the determinations within this notice.

A detailed assessment and inventory of the human remains was made by National Park Service professional staff in consultation with representatives of the Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

In 1956, human remains representing 99 individuals were recovered from 58 burial sites during a legally authorized National Park Service stabilization project conducted at the San Isidro Mission Church's Campo Santo Catholic Cemetery (Campo Santo). This site is located at the Pueblo de las Humanas

complex, a site located within Monument boundaries. No known individuals were identified. No associated funerary objects are present.

On the basis of architectural, archeological, biological (cranial morphology), historical, and Church documentation evidence, San Isidro's cemetery (Campo Santo) was determined to have been in use from 1629-1672; therefore, this site and these human remains are dated to the Pueblo IV and Pueblo V (A.D. 1300-1672) periods.

Based upon an osteological analysis of the 99 individuals recovered from this site (Campo Santo), 4 of these human remains were identified as Athabascan/Apache. This analysis found that the facial features of the four individuals were consistent with "Plains Indian" and are reported to be of Athabascan or Apachean ancestry. Archeological evidence obtained from the burials also suggests that these four individuals are of Athabascan/Apache origin.

Historical evidence records that Apache bands from the Apaches Perillos and Siete Rios raided the Salinas towns, which constitutes one of the reasons for their eventual abandonment. Additional documentary evidence indicates that some of these Apaches were killed during raids on the Salinas villages. Historical records also evidence that the Apache maintained friendships and established trading relationships with some of the Salinas towns on a band-to-town basis. Intermarriages between the Apaches and members of the towns also occurred.

Utilizing archeological, historical, geographical, biological, ethnographic, oral tradition, and expert opinion evidence, it has been determined that the above-described human remains are culturally affiliated with the Caddo, Kiowa, Mescalero Apache, White Mountain Apache, and Wichita Affiliated (Wichita, Keechi, Waco & Tawakonie) Tribes.

Based on the above-mentioned information, the Salinas Pueblo Missions National Monument Superintendent determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of four individuals of Native American ancestry. Lastly, the Salinas Pueblo Missions National Monument Superintendent also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Caddo Indian Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New

Mexico; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

This notice has been sent to officials of the Pueblo of Acoma, New Mexico; the Caddo Indian Tribe of Oklahoma; Hopi Tribe of Arizona; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma; Ysleta del Sur Pueblo of Texas; Zuni Tribe of the Zuni Reservation, New Mexico; and Piro-Manso-Tiwa, a non-Federally recognized Indian group. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Glenn M. Fulfer, Superintendent, Salinas Pueblo Missions National Monument, P.O. Box 517, Mountainair, NM 87036, telephone (505) 847-2585 Extension 25, before August 31, 2000. Repatriation of the human remains will begin after that date if no additional claimants come forward.

Dated: July 21, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00-19292 Filed 7-31; 8:45 am]

BILLING CODE 4310-70-F

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

TIME AND DATE: August 11, 2000 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731-TA-413-415 and 419 (Review) (Industrial Belts from Germany, Italy, Japan, and Singapore)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on August 18, 2000.)

5. Inv. Nos. 731-TA-96 and 439-445 (Review) (Industrial Nitrocellulose from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on August 24, 2000.)

6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: July 25, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00-19497 Filed 7-28-00; 2:03 pm]

BILLING CODE 7020-02-U

DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulation and Settlement Agreement Pursuant to the Resource Conservation and Recovery Act

In accordance with 28 CFR § 50.7, the Department of Justice gives notice that a proposed consent decree in *United States and State of Indiana, et al. v. American Chemical Service, Inc. et al.*, No. 2:00CV430JM (N.D. Ind.), was lodged with the United States District Court for the Northern District of Indiana on July 12, 2000.

The United States and the State of Indiana brought the action pursuant to various federal and state statutes, including Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607, to recover natural resource damages resulting from the release of hazardous substances at the American Chemical Service Superfund Site in Griffith, Lake County, Indiana ("Site"). The Complaint alleged that at relevant times the Defendants (or their successors) owned or operated the Site at the time of disposal of hazardous substances at the Site, or arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment of hazardous substances owned or possessed by that Defendant (or successor) at the Site. The Complaint alleges claims against 39 parties who either owned or operated the Site, or who arranged for treatment or disposal of hazardous substances at the Site.

Under the proposed Consent Decree, the Settling Defendants will pay \$250,000 for the acquisition of certain real property proposed for restoration as

a replacement for the injured natural resources at the Site, and \$50,000 for natural resource restoration activities at the property to be acquired. In addition, the Settling Defendants will pay up to \$30,000 toward the federal and state natural resource damage assessment costs, with the federal and state natural resource damage assessment costs, with the federal and state governments splitting that amount on a *pro rata* basis.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044-7611, and should refer to DOJ No. 90-11-2-1094/4.

The proposed stipulation and settlement agreement may be examined at: (1) The U.S. Fish and Wildlife Service, 620 S. Walker, Bloomington, Indiana, (812) 334-4261; and (2) the Office of the United States Attorney for the Northern District of Indiana, 1001 Main St., Ste. A, Dyer, Indiana 46311-1234, (219) 322-8576.

A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044-7611. In requesting a copy, please refer to the reference case and DOJ Reference Number 90-11-2-1094/4, and enclose a check in the amount of \$6.00 for the consent decree (24 pages at 25 cents per page reproduction costs), or \$16.75 for the consent decree and its appendices (67 pages at 25 cents per page reproduction costs) made payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00-19383 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of the Consent Decree Pursuant to the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on July 13, 2000, a proposed Consent Decree in *United States v. Harris County Municipal Utility District No. 50* ("Defendant"), Civil Action No. H-00-1931, was lodged with the United States District Court for the Southern District of Texas, Houston Division.

In this action the United States, on behalf of the United States

Environmental Protection Agency ("EPA"), and the State of Texas, sought injunctive relief and civil penalties arising from the operation of a publicly owned sewage treatment works located in Barrett Station, Harris County, Texas. Pursuant to the proposed Consent Decree, the Defendant will take measures to properly operate and maintain the collection system, identify problems that lead to noncompliance within the collection system and facility, and undertake the necessary capital improvements to eliminate unauthorized discharges. The proposed Consent Decree also requires the Defendant to pay \$10,000. The proposed Consent Decree resolves the Defendant's liability under Section 309 of the Clean Water Act, 33 U.S.C. 1319 and Texas Water Code § 7.105.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, N.W., Washington, D.C. 20044-7611, and should refer to *United States v. Harris County Municipal Utility District No. 50*, D.J. Ref. 90-5-1-1-4505. The Consent Decree may be examined at U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044-7611. In requesting a copy, please enclose a check in the amount of \$7.75 payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00-19385 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department of Justice policy codified at 28 CFR 50.7 and Section 122 of CERCLA, 42 U.S.C. 9622, notice is hereby given that May 26, 2000, two proposed Consent Decrees in *United States v. Elsa Morgan-Skinner, et al.*, Civ. Action No. C-1-00-424, were lodged with the United States District Court for the Southern District of Ohio. The first Consent Decree represents a settlement of claims of the

United States for recovery of response costs incurred by the United States in connection with the Skinner Landfill Superfund Site (Site) in West Chester, Ohio, under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9607(a), against Elsa Morgan-Skinner and seventy-two (72) other potentially responsible parties (PRPs) that contributed hazardous substances to the Site. Under the terms of the Consent Decree (the Remedial Action of "RA Consent Decree"), the Settling Generator/Transporter Defendants, including approximately sixty-six (66) companies, (Work Parties) will implement an EPA-approved remedial action which includes, among other things, the construction of a cap over a former dump and buried waste lagoon area; and the interception, capture and treatment of contaminated groundwater located down-gradient from the capped area. The Settling Owner/Operator Defendant Elsa Morgan-Skinner, the current Site owner, agrees to grant access to and restrictive use covenants on the Site, and resolves her liability by selling an option to purchase the site for \$5,000 to the Work Parties. A portion of the proceeds of any such sale will be deposited into an account known as the Skinner Landfill Special Account. Two Settling Federal Agencies, the General Services Administration and the Defense Logistics Agency, will pay \$602,599.12 into the Skinner Landfill Special Account. Finally, the Settling *De Minimis* Federal Agencies, including the United States Army, United States Air Force, United States Information Agency and the United States Postal Service, each of which contributed less than 1% of the total volume of waste at the Site, will pay \$87,804.29 into the Skinner Landfill Special Account. Eighty percent of the funds in the Special Account will be available for disbursement to the Work Parties for their remediation work. In exchange for these payments and performance of the remedial action, each of the Settling Defendants under the RA Consent Decree will receive covenants not to sue and contribution protection.

The second Consent Decree resolves the United States' claims for recovery of response costs incurred at the Site against seven municipalities, including the Cities of Blue Ash, Deer Park, Madiera, Mason, Sharonville and the Villages of Lincoln Heights and Monroe, each of which contributed municipal solid waste (MSW) to the Site. Under the terms of this Consent Decree (known as the "MSW Consent Decree") the

Settling Municipalities will pay a total of \$17,218 into the Skinner Special Account. These funds will be made available to the Work Parties for their remediation work. In exchange for this payment, each of the Settling Municipalities will receive a covenant not to sue and contribution protection.

From June 9, 2000, through July 10, 2000, the Department of Justice accepted comments on the proposed Consent Decrees. The Department of Justice will receive for an additional period of two weeks from the date of this publication comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 950 Pennsylvania, NW, Washington, DC 20530, and should refer to *United States v. Elsa Morgan-Skinner et al.* Civ. Action No. C-1-00-424; D.J. Ref. Nos. 90-11-3-1620, 90-11-6-118, 90-11-6-128.

The Consent Decrees may be examined at the Office of the United States Attorney, 220 United States Post Office & Courthouse, 100 E. 5th Street, Cincinnati, Ohio 45202, and at the United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or on the United States Environmental Protection Agency's internet website at www.epa.gov/region5/sites. A copy of the Consent Decrees may also be obtained by mail from the Consent Decree Library in amount of \$65.50 for both Consent Decrees; or \$60.00 (240 pages at 25 cents per page reproduction cost) for the RA Consent Decree; or \$5.50 (22 pages at 25 cents per page reproduction cost) for the MSW Consent Decree.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 00-19832 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Clean Air Act

Notice is hereby given that, on July 20, 2000, a Consent Decree in *United States, Plaintiff, and States of Arkansas, Louisiana, and south Carolina Dept. of Health and Environmental Control, Plaintiff-Intervenors v. Willamette Industries, Inc.* Civil Action No. CV-00-1001-HA, was lodged in the United States District Court for the District of Oregon.

In this action the United States and the Plaintiff-Intervenors sought injunctive relief and civil penalties under Section 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. 7413(b) against Willamette Industries, Inc. ("Willamette"). The alleged violations include the failure to install pollution control devices and obtain permits, required by the CAA, at wood product manufacturing facilities owned and operated by Willamette in: Emerson and Malvern Arkansas; Dodson, Ruston, Zwolle, Lillie, Taylor and Simsboro Louisiana; Bend, Eugene, Foster, Springfield and Sweet Home Oregon, and Chester South Carolina. The Consent Decree resolves all of these claims. The Consent Decree requires Willamette to pay a civil penalty of just over \$11.2 million, to perform Supplemental Environmental Projects costing at least \$8 million, to install pollution control devices on its facilities, and to perform environmental audits of its facilities.

The Department of Justice will accept written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States et al. v. Willamette Industries, Inc.*, Civil Action No. CV-00-1001-HA (D. Oregon), DJ # 90-5-2-1-2186.

Copies of the Consent Decree may be examined at the Office of the United States Attorney for the District of Oregon, 1000 S.W. Third Ave., Suite 600, Portland OR 97204. An electronic copy of the Consent Decree is available online at: <http://es.epa.gov/oeca/ore/aed/willamette/index.html>. A copy of the Consent Decree may also be obtained by mail at the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. When requesting a copy of the proposed modification to the Consent Decree by mail, please enclose a check in the amount of \$12.75 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 00-19384 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group, Inc.

Notice is hereby given that, on May 4, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 et seq. ("the Act"), Digital Imaging Group, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ofoto, Berkeley, CA; PhotoTablet, Inc., Sebastopol, CA; The Workbook, Los Angeles, CA; Amazingmail.com, Inc., Scottsdale, AZ; House of Images, Inc., Beverly Hills, CA; Kablink, San Diego, CA; Pixami, Inc., San Ramon, CA; EZ Prints, Atlanta, GA; Zing, Inc., San Francisco, CA; and Fileflow As, Oslo, Norway have been added as parties to this venture. Also, Intellectual Protocols, Nannet, NY; Norwegian University of Science and Technology, Trondheim, Norway; Ditto.com (formerly Arribasoft), Emeryville, CA; and Tower Semiconductor Ltd., Migdal Haemek, Israel have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Digital Imaging Group, Inc. intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60530).

The last notification was filed with the Department on February 11, 2000. A

notice was published in the Federal Register pursuant to Section 6(b) of the Act on June 29, 2000 (64 FR 40129).

Constance K. Robinson, Director of Operations, Antitrust Division.

JOINT VENTURE WORKSHEET [Supplemental Filings Only]

- A. Name of venture: Digital Imaging group, Inc. Nature of notification: supplemental Concise statement of purpose (if purpose has changed): Same as before—no changes. B. For ventures involving research and development only: Identity of parties added to venture: 1. Ofoto, Berkely, CA 2. PhotoTablet, Inc., Sebastopol, CA 3. The Workbook Lose Angeles, CA 4. Amazingmail.com, Inc., Scottsdale, AZ 5. House of Images, Inc., Beverly Hills, CA. 6. Kablink, San Diego, CA. 7. Pixami, Inc., San Ramon, CA. 8. EZ Prints, Atlanta, GA. 9. Zing, Inc., San Francisco, CA. 10. Fileflow As, Oslo, NORWAY. Identity of parties dropped from venture: 1. Intellectual Protocols, Nannet, NY. 2. Norwegian University of Science and Technology, Trundheim, NORWAY. 3. Ditto.com (formerly Arribasoft), Emeryville, CA. 4. Tower Semiconductor Ltd., Migdal Haemek, ISRAEL.

[FR Doc. 00-19388 Filed 7-31-00; 8:45 am] BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—J Consotrium, Inc.

Notice is hereby given that, on April 20, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 et seq. ("the Act"), J Consotrium, Inc. has filed written notifications simultaneously with the Attorney

General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, E-SIM, San Diego, CA; Bull Smart Cards and Terminals, Foster City, CA; and UK Ministry of Defence, Weymouth, United Kingdom have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and J Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On August 9, 1999, J Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on March 21, 2000 (65 FR 15175).

The last notification was filed with the Department on January 20, 2000. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on June 21, 2000 (65 FR 38596).

Constance K. Robinson, Director of Operations, Antitrust Division.

Joint Venture Worksheet

(Supplemental Filings Only)

- A. Name of venture: J. Consortium, Inc. Nature of notification: Supplemental Concise statement of purpose (if purpose has changed): Same as before—no changes. B. For ventures involving research and development only: Identity of parties added to venture: 1. E-SIM, San Diego, CA 2. Bull Smart Cards and Terminals, Foster City, CA 3. UK Ministry of Defence, Weymouth, UNITED KINGDOM Identity of parties dropped from venture: C. For ventures involving production: Identity and nationality of parties to joint production venture:

Identity

Nationality

Place of incorporation

Location of principal executive offices

[FR Doc. 00-19386 Filed 7-31-00; 8:45 am] BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE**Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—OBI Consortium, Inc.**

Notice is hereby given that, on June 15, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), OBI Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, bCandid Corporation, Boulder, CO; BEA Systems, San Jose, CA; Catalyst Capital, Newport Beach, CA; Consolidated Commerce, Des Plaines, IL; Ectone, Santa Clara, CA; ESSELTE Corporation, Greenwich, CT; Medium, Wayne, PA; and Passport International, Ltd., Mt. Pleasant, SC have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OBI Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On September 10, 1997, OBI Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60531).

The last notification was filed with the Department on March 3, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40131).

Constance K. Robinson,

Director of Operations Antitrust Division.

Joint Venture Worksheet

(Supplemental Filings Only)

- A. Name of venture: OBI Consortium, Inc.
Nature of notification: Supplemental Concise statement of purpose (if purpose has changed): Same as before—no changes.
- B. For ventures involving research and development only:
Identity of parties added to venture:
1. bCandid Corporation, Boulder, CO

2. BEA Systems, San Jose, CA
3. Catalyst Capital, Newport Beach, CA
4. Consolidated Commerce, Des Plaines, IL
5. Ectone, Santa Clara, CA
6. ESSELTE Corporation, Greenwich, CT
7. iMedium, Wayne, PA
8. Passport International, Ltd., Mt. Pleasant, SC
Identity of parties dropped from venture:

- C. For ventures involving production:
Identity and nationality of parties to joint production venture:

[FR Doc. 00-19387 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****Importation of Controlled Substances; Notice of Application**

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on June 6, 2000, Chiragene, Inc., 7 Powder Horn Drive, Warren, New Jersey 07059, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone to manufacture amphetamine.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistance Administrator, Office of

Diversions Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversions Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: July 11, 2000.

John H. King,

Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration.

[FR Doc. 00-19290 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE**Federal Bureau of Investigation****Agency Information Collection Activities: Proposed Collection; Comment Requested**

ACTION: Notice of information collection under review; Extension of a currently approved collection; Return A—Monthly Return of Offenses Known to the Police and Supplement to Return A—Monthly Offenses Known to the Police.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 30, 2000, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until August 31, 2000. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management

and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202-395-7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 1220, National Place Building, 1331 Pennsylvania Ave., NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514-1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. Type of information collection: Extension of Current Collection
2. The title of the form/collection: Return A—Monthly Return of Offenses Known to the Police and Supplement to Return A—Monthly Offenses Known to the Police.
3. The agency form number, if any, and applicable component of the Department Sponsoring the collection. Form: 4-927A; 4-919. Federal Bureau of Investigation, Department of Justice.
4. Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. This collection is needed to collect data regarding criminal offenses and their respective clearances throughout the United States. Data is tabulated and published in the annual *Crime in the United States*.

5. The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity*.

6. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 17,667 agencies with 212,004 responses (including zero reports); and with an average of 30 minutes a month devoted to compilation of data for this information collection.

7. An estimate of the total public burden (in hours) associated with both collections: 74,201 hours annually.

Public comments on this proposed information collection are strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Department Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place Building, 1331 Pennsylvania Ave., NW, Washington 20530.

Dated: July 27, 2000.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 00-19357 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comment Requested

ACTION: Notice of information collection under review; Extension of a currently approved collection; Hate Crime Incident Report and Quarterly Hate Crime Report.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 26, 2000, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until August 31, 2000. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and

Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202-395-7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 1221, National Place Building, 1331 Pennsylvania Ave., NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514-1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. Type of information collection: Extension of Current Collection.
2. The title of the form/collection: Hate Crime Incident Report and Quarterly Hate Crime Report.
3. The agency form number, if any, and applicable component of the Department Sponsoring the collection. Form: 11-1; 11-2. Federal Bureau of Investigation, Department of Justice.
4. Affected public who will be asked or required to respond, as well as brief abstract. Primary: Local and State Law Enforcement Agencies. This collection will gather information necessary to monitor the bias motivation of selected criminal offenses. The resulting statistics are published annually.
5. The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions*

for the Standards for the Classification of Federal Data on Race and Ethnicity.

6. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 17,667 agencies with 106,002 responses (including zero reports); and with an average of 6 hours and 35 minutes annually devoted to compilation of data for this information collection.

7. An estimate of the total public burden (in hours) associated with both collections: 15,900 annually.

Public comments on this proposed information collection are strongly encouraged.

If additional information is required contract: Mr. Robert B. Briggs, Department Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1221, National Place Building, 1331 Pennsylvania Ave., NW, Washington, DC 20530.

Dated: July 27, 2000.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 00-19358 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2082-00]

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Implementation of Border Barriers for Enforcement Initiatives in Arizona

AGENCY: Immigration and Naturalization Service (INS), Justice.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Action

In furtherance of its mission to gain and maintain control of the Arizona border, in 1994, the INS launched Operation Safeguard, an aggressive initiative that brought new agents, equipment, and technology to the Tucson Border Patrol Sector. The goal of Operation Safeguard is to heighten deterrence and improve control along the nearly 300 miles of international border in Arizona. The aim of INS' comprehensive border enforcement effort, which includes Operation Gatekeeper in California and Operations Hold the Line and Rio Grande in Texas, is to reduce the adverse effects of illegal

immigration and improve the quality of life for residents along the immediate border and throughout the nation. The INS will now expand Operation Safeguard by utilizing new resources and technology within the following Arizona Border Patrol stations: Ajo/Why, Casa Grande, Douglas, Naco, Nogales, Sonoita, Tucson, Wellton, Wilcox, and Yuma. The enhancements will bolster the efforts to ensure the safety of migrants, ranchers, and local residents, as well as provide increased safety of operations for agents. Enhancement will include, but not be limited to, additional Border Patrol personnel, support vehicles, air support, border barriers, lighting, border road improvements, and remote video surveillance systems.

Alternatives

In developing the DEIS, the options of no action and alternatives for Operation Safeguard will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be numerous opportunities for public involvement in order to determine the environmental issues to be examined. The meetings will be well publicized and held at a time which will make it possible for the public and interested agencies or organizations to attend. Scoping meetings will be held in Douglas, Tucson, Yuma, and Nogales, Arizona. Notice of the Scoping meetings will be published in local newspapers prior to the meetings indicating the date, time, and location of each Scoping meeting.

DEIS Preparation

Public notice will be published in the **Federal Register** concerning the availability of the DEIS for public review and comment.

FOR FURTHER INFORMATION CONTACT:

Manny Rodriguez, Chief Policy and Planning, Immigration and Naturalization Service, Facilities and Engineering Branch, 425 I Street, NW., Washington, D.C. 20536, Room 2060, Telephone: 202-353-0383.

Dated: July 25, 2000.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00-19335 Filed 7-31-00; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of July 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision, thereof, have become totally or partially separated;

That sales or production, or both, of the firm or subdivision have decreased absolutely; and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-37,403; R. Daye Limited, New York, NY

TA-W-37,596; The Bethlehem Corp., Easton, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA-W-37,837; American General Assurance Co., Reading, PA

TA-W-37,763; Destination Film Distribution Co., Inc., Wheelman Products, Santa Monica, CA

TA-W-37,762; Hearst Entertainment, King Telpro Productions, Los Angeles, CA

TA-W-37,623; Lear Corp., Mold and die Shop, El Paso, TX

TA-W-37,836; Shenandoah Rag Co., Inc., Shenandoah, PA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-37,631; *Celestica Corp.*,
Campton, KY
TA-W-37,522; *INX International Ink Co.*,
Warminster, PA
TA-W-37,757; *Cutler-Hammer, Crane Transportation & Resistors*,
Milwaukee, WI
TA-W-37,868; *American Meter Co.*,
Erie, PA
TA-W-37,560; *Honeywell International, Speciality Chemicals, Commercial Roofing Systems*, Ironton, OH
TA-W-37,706; *Fruit of The Loom, Sports and Licensing Div.*, Salem
Sportswear, Inc., Frankfort, KY
TA-W-37,750; *Acme Steel Co.*,
Riverdale, IL
TA-W-37,493; *Levi Strauss and Co.*,
RMQ Lab, Pelicano Finishing Plant,
El Paso, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-37,802; *Lydal-Westex*,
Hamptonville, NC

The investigation revealed that criteria (2) has not been met. Sales or production, or both, did not decline during the relevant period as required for certification.

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA-W-37,852; *Southwest Cupid Corp.*,
Hominy, OK: June 15, 1999.
TA-W-37,523 & A; *Sangamon, Inc.*,
Taylorville, IL and Moultrie, GA:
March 17, 1999.
TA-W-37,669; *Wheeling-Labelle Nail Co.*,
Wheeling, WV: May 2, 1999.
TA-W-37,433; *Smithville Sportswear, including Workers of Skilstaf, Inc.*,
Smithville, TN: February 24, 1999.
TA-W-37,822; *Kalkstein Silk Mills, Inc.*,
Paterson, NJ: May 25, 1999.
TA-W-37,739; *Applied Sewing Resources, Inc.*,
Orland, CA: May 20, 1999.
TA-W-37,791; *Erie Controls*,
Milwaukee, WI: May 19, 1999.
TA-W-37,602; *Wil-Gro Fertilizer, Inc.*,
Pryor, OK: April 3, 1999.
TA-W-37,667; *AMF Reece, Inc.*,
Mechanicsville, VA: April 6, 1999.
TA-W-37,813; *Seton Co., Leather Div*,
Saxton, PA: June 5, 1999.
TA-W-37,862; *K & R Sportswear*,
Spring Hope, NC: July 21, 1999.
TA-W-37,675; *Hagale Industries, Inc.*,
Salem MO: April 26, 1999.

TA-W-37,711; *Dana Epic Technical Group, Fluid Systems Products*,
Kendallville, IN: May 5, 1999.
TA-W-37,771; *A & B Dallco Industries, Inc.*,
York, PA; *Dalta, PA*; and
Spring Run, PA: May 31, 1999.
TA-W-37,641; *Jo-B's, Inc.*,
Frisco City, AL: April 23, 1999.
TA-W-37,806; *W.E. Bassett Co.*,
Derby, CT: June 9, 1999.
TA-W-37,691 & A; *Four Seasons Apparel Co.*,
Murfreesboro, NC and
Sanford, NC: May 5, 1999.
TA-W-37,642; *Zeller Corp.*,
Defiance, OH: April 24, 1999.
TA-W-37,510; *Cliftex Corp.*,
New Bedford, MA: March 13, 1999.
TA-W-37,627; *Bari Manufacturing Co., Inc.*,
Passaic, NJ: April 10, 1999.
TA-W-37,677; *Wheaton USA, Inc.*,
Decora Operations, Pennsville, NJ:
April 18, 1999.
TA-W-37,636; *Voyager Emblems, Inc.*,
Sanborn, NY: April 19, 1999.
TA-W-37,655; *Cassie Cotillion*,
Albemarle, NC: April 17, 1999.
TA-W-37,699; *Invensys Appliance Controls*,
Independence, VA: May 4, 1999.
TA-W-37,644; *Ranco North America*,
Plain City, OH: May 1, 1999.
TA-W-37,814; *Allied Signal, Honeywell, Inc.*,
Torrance, CA: June 8, 1999.
TA-W-37,803; *MNCO, LLC (Formerly McGuire-Nicholas Co. LLC)*,
Commerce, CA: May 23, 1999.
TA-W-37,845; *Sims Deltec, Inc.*,
St. Paul, MN: June 15, 1999.
TA-W-37,770; *H. H. Rosinsky Co., Inc.*,
Philadelphia, PA: May 30, 1999.
TA-W-37,865; *ITT Industries, Fluid Handling Systems*,
Tawas City, MI: June 24, 1999.
TA-W-37,838; *Colorado Biomedical, Inc.*,
Evergreen, CO: June 14, 1999.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103-182) concerning transitional adjustment hereinafter called (NAFTA-TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of July, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate

subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA-TAA-03977; *Eagle River Knits, Inc.*,
Monroe, NC
NAFTA-TAA-03925; *Applied Sewing Resources, Inc.*,
Orland, CA
NAFTA-TAA-03721; *Rockwell Automation*,
Euclid Plant, Euclid, OH
NAFTA-TAA-03802; *Levi Strauss & Co.*,
RMQ Lab, Pelicano Finishing Plant,
El Paso, TX
NAFTA-TAA-03940; *Fruit of the Loom, Sports and Licensing Div.*,
Salem Sportswear, Inc., Frankfort, KY
NAFTA-TAA-03996; *Federal Mogul Corp.*,
Milan, MI

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NONE

Affirmative Determinations NAFTA-TAA

NAFTA-TAA-03990; *Collins Pine Co., Collins Products, LLC, Klamath Falls*,
OR: June 23, 2000.
NAFTA-TAA-03995; *John Manville International, Inc., Roofing Systems Group*,
Saco, ME: June 29, 1999.
NAFTA-TAA-04002; *American Meter Co.*,
Erie, PA: June 26, 1999.
NAFTA-TAA-03877; *Erie Controls*,
Milwaukee, WI: April 26, 1999.
NAFTA-TAA-03976; *The Raleigh Co., Div. of I.C. Isaacs & Co., Inc.*,
Raleigh, MS: June 8, 1999.

NAFTA-TAA-03997; *PL Industries, a/k/a PL Garment Finishers, McRae, GA*: June 23, 1999.

NAFTA-TAA-03780; *Smithville Sportswear, including Workers of Skilstaf, Inc., Smithville, TN*: March 6, 1999.

NAFTA-TAA-3945; *The Doe Run Resources Co., The Southeast Missouri Milling and Mining Div., Viburnum, MO*: May 17, 1999.

NAFTA-TAA-04008; *ITT Industries, Fluid Handling Systems, Tawas City, MI*: June 24, 1999.

NAFTA-TAA-03890; *Wheaton USA, Inc., Decora Operations, Pennsville, NJ*: April 18, 1999.

NAFTA-TAA-03956; *H. H. Rosinsky Company, Inc., Philadelphia, PA*: May 30, 1999.

NAFTA-TAA-03991; *Sims Deltec, Inc., St. Paul, MN*: May 1, 1999.

NAFTA-TAA-03981; *Thermadyne Holdings Corp., Tweco Products, Inc., Wichita, KS*: May 31, 1999.

NAFTA-TAA-03859; *ICI Explosives USA, Inc., Ammonium Nitrate Div., Joplin, MO*: April 14, 1999.

NAFTA-TAA-03845; *Honeywell International, Specialty Chemicals, Commercial Roofing Systems, Ironton, OH*: April 12, 1999.

NAFTA-TAA-03912; *The Kym Co., Jackson, GA*: May 15, 1999.

NAFTA-TAA-03984; *LaCrosse Footwear, Inc., Clintonville, WI*: June 20, 1999.

I hereby certify that the aforementioned determinations were issued during the month of July, 2000. Copies of these determinations are available for inspection in Room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 25, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19402 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-37,710]

A.T. Cross Company, Lincoln, Rhode Island; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 22, 2000, in response

to a petition filed on the same date on behalf of workers at A.T. Cross Company, Lincoln, Rhode Island.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C., this 11th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19407 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-37,825]

Georgia Pacific Corporation, CNS/Softwood Lumber Division, Baileyville, Maine; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 26, 2000, in response to a petition filed by a PACE International Union, Local #1-1867 representative on behalf of workers at Georgia Pacific Corporation, Baileyville, Maine. Workers are engaged in employment related to the production of lumber studs.

An active certification covering the petitioning group of workers remains in effect through January 19, 2001 (TA-W-35,257). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 12th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19408 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-37,570]

Lilly Industries, Inc., Indianapolis, Indiana; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 17, 2000, in response

to a petition filed on the same date on behalf of workers at Lilly Industries, Inc., Indianapolis, Indiana.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C., this 10th day of July 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19409 Filed 7-30-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-37,156]

Ray-Ban Sun Optics, Luxottica, Formerly Known as Eyewear Division of Bausch & Lomb, San Antonio, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 4, 2000, applicable to workers of Ray-Ban Sun Optics, San Antonio, Texas. The notice was published in the **Federal Register** on March 17, 2000 (65 FR 14627).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of sunglasses. Findings show that the subject firm, which was originally named the Eyewear Division of Bausch & Lomb, was sold in June 1999 to Luxottica and was renamed Ray-Ban Sun Optics. The Department is amending the certification determination to correctly identify the new title name to read "Ray-Ban Sun Optics, Luxottica, formerly known as Eyewear Division of Bausch & Lomb;"

The amended notice applicable to TA-W-37,156 is hereby issued as follows:

All workers of Ray-Ban Sun Optics, Luxottica, formerly known as Eyewear Division of Bausch & Lomb, San Antonio, Texas who became totally or partially separated from employment on or after November 20, 1998 through February 4, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of July 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19403 Filed 7-31-00; 8:45am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this

notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment

Assistance, at the address shown below, not later than August 11, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 11, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 17th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX
[Petitions instituted on 07/17/2000]

TA-W	Subject firm (petitioners)	Location	Date of petition	product(s)
37,877	Swiss Maid, Inc. (Wkrs)	Greentown, PA	06/28/2000	Embroidered Emblems.
37,878	Sebago (Co.)	Westbrook, ME	06/30/2000	Men's and Women's Footwear.
37,879	Beaulieu of America (Co.)	Anadarko, OK	06/29/2000	Broadloom Carpet.
37,880	All Technologies, Inc (Wkrs)	El Paso, TX	06/30/2000	Computers.
37,881	Hart Mountain Millworks (Wkrs)	Lakeview, OR	06/29/2000	Finger Joint Blocks.
37,882	Walpole, Inc. (Co.)	Westampton, NJ	06/30/2000	Industrial Textile Bags.
37,883	Corrpro Companies (Wkrs)	Midland, TX	06/30/2000	Provide Cathodic Protection Materials.
37,884	Rycraft, Inc (Co.)	Covallis, OR	06/27/2000	Cookie Stamps.
37,885	PF Technologies (Co.)	Phoenix, AZ	07/07/2000	Painting and Assembly of Cell Phones.
37,886	Racing Champions (Wkrs)	Dyersville, IA	06/27/2000	Toy's.
37,887	Avent, Inc. (Co.)	Tuscon, AZ	07/07/2000	Disposable Surgical Gowns, Caps.
37,888	Federal Mogul Wiper (Co.)	Michigan City, IN	07/06/2000	Wiper Blades and Refill Blades.
37,889	Crown Pacific (Wkrs)	Gilchrist, OR	07/05/2000	Lumber.
37,890	TCE, Inc (Co.)	Dunmore, PA	07/05/2000	27" Color Televisions Picture Tubes.
37,891	Acorn Window Systems (Wkrs)	Quincy, MI	06/30/2000	Windows and Patio Doors.
37,892	CRH Catering Co. (Wkrs)	Connellsville, PA	07/05/2000	Provides Vending Service, Catered Lunch.
37,893	IKG Industries (USWA)	Nashville, TN	06/27/2000	Steel and Fiberglass Grating.
37,894	GT Bicycles (Co.)	Santa Ana, CA	06/19/2000	Bicycles.
37,895	DeFarr, Inc (Wkrs)	New York, NY	07/07/2000	Ladies' Dresses.

[FR Doc. 00-19405 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-37,563]

Tecumseh Products Company, Somerset, Kentucky; Notice of Negative Determination Regarding Application for Reconsideration

By application dated July 7, 2000, attorneys on behalf of the workers (hereinafter referenced as the petitioner), request administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the Tecumseh Products Company, Somerset, Kentucky. The denial notice was signed on May 12, 2000, and published in the **Federal Register** on June 8, 2000 (65 FR 36469).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

To support the application for reconsideration, the petitioner provided a published article quoting a company official of Tecumseh Products Company linking the Somerset plant closing with the dumping of cheap Asian compressors in the United States, devastating the subject firm customer base. The petitioner states also that the article cites that the layoffs and plant closure are intended to help Tecumseh cut prices so it can combat the challenge.

The workers at Tecumseh Products Company, Somerset, Kentucky, produced refrigeration and air conditioner compressors. The workers were denied eligibility to apply for TAA based on the finding that the contributed importantly criterion (3) of the worker group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. Section 222 (3) requires that increased imports of articles like or directly competitive with those produced at the subject firm contribute importantly to declines in sales or production and worker separations.

Layoffs at Tecumseh Products Company were attributable to the company's decision to transfer production to other domestic facilities. The investigation further revealed that the majority of the output at the Somerset, Kentucky plant was for the export market. A loss of export market business cannot be considered a basis for worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 17th day of July 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19410 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration****Solicitation for Grant Applications (SGA) H-1B Technical Skill Training Grants**

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of availability of funds and solicitation for grant applications (SGA).

SUMMARY: *This Notice contains all of the necessary information and forms needed to apply for grant funding.* The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of grant funds for skill training programs for unemployed and employed workers. Funding for these grants is coming from the user fee mandated for applicants for new H-1B nonimmigrant visa workers and established under the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA). The grants will have the longer term goal of raising the skill levels of domestic workers so that they can fill high skill jobs which are presently being filled by temporary workers being admitted to the United States under the provisions of H-1B. Department of Labor will convene Bidders Conferences in early August to share information with eligible applicants and other interested

parties. Detailed information as to the exact times and locations of these sessions together with other pertinent facts may be found on the ETA web page (<http://www.doleta.gov>) or by calling a toll-free help line (1-877-US2-JOBS).

Eligible applicants for these grants will be local Workforce Investment Boards (WIBs) established under section 117 of the Workforce Investment Act (WIA) that will carry out such programs or projects through one-stop delivery systems established under section 121 of WIA, or regional consortia of local boards. Regional consortia may be interstate. Successful applicants under earlier H-1B Solicitations will be eligible for grants under this competition; however those current awardees will be required to indicate that this proposal provides a completely new approach to skill training (including a different skill shortage area, e.g., health occupations rather than information technology) from that being conducted under their current grant. Proposals submitted by those current awardees will be subject to pre-screening to assure that they propose an approach that is clearly innovative and different from the activity that was implemented under the previous award.

WIA provides a framework for a national workforce investment and employment system designed to meet both the needs of the nation's businesses and the needs of job seekers and workers who want to further their careers. ACWIA will provide resources for skill training in occupations that are in employer demand; one measure of this demand is employer H-1B applications for workers. In particular, industries that appear to generate the most H-1B demand include information technology and health. Appendix A to this Solicitation provides information on the kinds of occupations certified under the H-1B program by the Department of Labor for Fiscal Year 1999 (Oct.1, 1998 to May 1999), and the number of job openings certified in each occupation.

This notice describes the application submission requirements, the process that eligible entities must use to apply for funds covered by this solicitation, and how grantees will be selected. It is anticipated that about \$45 million will be available for funding the projects covered in this second-round solicitation, that approximately fifteen projects will be selected for funding,

and that the maximum grant award will not exceed \$3.0 million.

DATES: Applications for grant awards will be accepted commencing immediately. The closing date for receipt of applications shall be September 19, 2000 at 4 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications shall be mailed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Diemle Phan, SGA/DFA 00-108, 200 Constitution Avenue, NW, Room S-4203, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Questions should be faxed to Diemle Phan, Grants Management Specialist, Division of Federal Assistance, Fax (202) 219-8739. This is not a toll free number. All inquiries should include the SGA number (DFA 00-108) and a contact name, fax and phone number. This solicitation will also be published on the Internet on the Employment and Training Administration's Homepage at <http://www.doleta.gov>. Award notifications will also be published on this Homepage.

Background

This initiative will build on similar ETA initiatives that deal with the issue of skill shortages including the June 1998 dislocated worker technology demonstration, the new dislocated worker technology demonstration, the regional skills consortium building awards announced in March 2000, the individual training account demonstration grant awards announced in February 2000 and the skills strategies, partnership training/system building demonstration awards which were announced in June. These efforts were intended to strengthen linkages between employers experiencing skill shortages in specific occupations and the publicly funded workforce development system. In June 1998, \$7.5 million in JTPA Title III dislocated worker funds was awarded to 11 organizations throughout the country to train workers in skills related to the information technology industry. In June 1999, over \$9.57 million was awarded to 10 grantees to train dislocated workers in the skills necessary to obtain work requiring advanced skills in occupations in manufacturing industry settings, including computers and electronics manufacturing, machinery and motor vehicles, chemicals and petroleum, specialized instruments and devices, and biomedics. On March 2, 2000, 23 awards totaling \$15.2 million were

announced for the regional skills consortium competition. Finally, this Solicitation is taking into account the experience gained from the first and second rounds of the H-1B competition for which 9 awards totaling \$12.4 million were announced on February 10, 2000 and 12 awards totaling \$29.2 million were announced on July 19, 2000.

SUPPLEMENTARY INFORMATION: ETA is soliciting proposals on a competitive basis for the conduct of demonstration projects to provide technical skills training for workers, including both employed and unemployed workers. This announcement consists of three parts:

- Part I Application Process.
- Part II Statement of Work/Reporting Requirements.
- Part III Review Process/Rating Criteria

Legislative Mandate

The relevant portions of ACWIA dealing with the establishment of a fund for implementing a program of H-1B skill training grants state:

“Section 286(s)—H-1B Nonimmigrant Petitioner Account

(1) *In General*—There is established in the general fund of the Treasury a separate account, which shall be known as the “H-1B Nonimmigrant Petitioner Account.” Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9).

(2) *Use of Fees For Job Training*—56.3 percent of amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 104(c) of the American Competitiveness and Workforce Improvement Act of 1998.”

“Section 104(c)—Demonstration Programs and Projects To Provide Technical Skills Training for Workers

(1) *In General*—In establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of the enactment of this Act, or demonstration programs of projects under section 171(b) of the Workforce Investment Act of 1998, the Secretary of Labor shall use funds available under section 286(s) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(2) *Grants*—The Secretary of Labor shall award grants to carry out the programs and projects described in paragraph (1) to—

(A)(i) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of the enactment of this Act; or

(ii) local boards that will carry out such programs or projects through one-stop delivery systems established under section 121 of the Workforce Investment Act of 1998; or

(B) regional consortia of councils or local boards described in subparagraph (A). The Immigration and Nationality Act (INA) (section 101(a)(15)(H)(i)(b)) defines the “H-1B alien as one who is coming temporarily to the United States to perform services in a specialty occupation or as a fashion model.”

The INA (Section 214(i)) sets criteria to define the term “specialty occupation:”

(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph 2, a “specialty occupation” means an occupation that requires—

(A) theoretical and practical application of a body of highly specialized knowledge and,

(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States

(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph with respect to a specialty occupation are—

(A) full state licensure to practice in the occupation, if such licensure is required.

(B) completion of the degree described in paragraph (1)(B) for the occupation, or

(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Part I—Application Process

A. Eligible Applicants

ACWIA specifies under Section 104(c)(2) that the Secretary shall award grants to private industry councils (PICs) established under section 102 of the Job Training Partnership Act (JTPA) (Note: The Workforce Investment Act was implemented on July 1, 2000 and superseded JTPA; therefore private industry councils have been replaced by workforce investment boards), or local boards that will carry out such programs or projects through one-stop delivery

systems established under section 121 of the Workforce Investment Act (WIA) of 1998, or regional consortia of councils or local boards. This Solicitation contemplates that the local boards will designate a fiscal agent to be the recipient of grant funds. Successful applicants under earlier H-1B Solicitations will be eligible for grants under this competition; however those current awardees will be required to indicate that this proposal provides a completely new approach to skill training (including a different skill shortage area, *e.g.*, health occupations rather than information technology) from that being conducted under their current grant. Proposals submitted by those current awardees will be subject to pre-screening to assure that they propose an approach that is clearly innovative and different from the activity that was implemented under previous award.

While the statute is quite specific about the fact that only local boards (through their designated fiscal agents) and consortia may apply for and receive these grant awards, it does not preempt the participation of other concerned entities which are integral to the process of planning for and conducting skill training in skill shortage areas. The Department of Labor is requiring that eligible applicants must demonstrate that they have the involvement of a wide representation of the business community in their region. They are also strongly encouraged to reach out widely and involve a broad spectrum of other organizations such as labor unions, community colleges and other postsecondary educational institutions, and community based and faith based organizations in a partnership or consortium arrangement.

Applicants are encouraged to associate with entities which possess a sound grasp of the job marketplace in the region and which are in a position to address the issue of skill shortage occupations. Such organizations would include private, for profit businesses—including small- and medium-size businesses; business, trade, or industry associations such as local Chambers of Commerce and small business federations; and labor unions. Also, those entities should include businesses and business associations which have experienced first hand the problems of coping with skill shortages and which employ workers engaged in skill shortage occupations. This Solicitation will not prescriptively define the roles of individual entities within the partnership beyond requiring, as ACWIA states, that local workforce investment boards, or consortia be the

applicant and the recipient of (or fiscal agent for receiving) grant funds. It is anticipated, however, that the proposal will provide a detailed discussion of participating organizations' respective responsibilities. The proposal should describe a consortium of several employers that will lead the consortium and provide matching funds and who intend to employ workers participating in the technical skills training.

Based on Department of Labor experiences, regional partnerships that actively engage a wide range of participation from community groups—particularly with strong private employer involvement—appear to be successful. In general, applicants will be encouraged to include a broad spectrum of stakeholder groups, including such employers, in their partnership effort. Also, local workforce investment boards or consortia thereof representing more than one region that share common economic goals may band together as one applicant rather than applying individually.

The application must clearly identify who the applicant is (or who the fiscal agent is). As part of this certification, the applicant must identify who the grant recipient (and/or fiscal agent) is and describe its capacity to administer this project; it shall also indicate that the project is consistent with and will be coordinated with the workforce investment system(s) that are involved in technical skills activities in the region(s) encompassed by the applicant.

Part III of this announcement enumerates and defines in depth a series of criteria that will be utilized to rate applicant submissions. Briefly, these criteria are:

- Statement of Need
- Service Delivery Strategy
- Target Population
- Sustainability
- Linkages with Key Partners
- Outcomes
- Cost Effectiveness

B. Submission of Proposals

Applicants must submit four (4) copies of their proposal, with original signatures. The proposal must consist of two (2) separate and distinct parts, Parts I and II.

• Part I of the proposal shall contain the Standard Form (SF) 424, "Application for Federal Assistance" (Appendix B) and the Budget Information Form (Appendix C). The individual signing the (SF) 424 on behalf of the applicant shall represent the responsible financial and administrative entity for a grant should that application result in an award. The individual who signs the application

should be the same individual who signs the certification discussed in the previous section. According to the Lobbying Disclosure Act of 1995, Section 18, an organization described in Section 501 (c) 4 of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan.

In preparing the Budget Information form, the applicant must provide a concise narrative explanation to support the request. The statutory language of ACWIA is specific in stating that grant resources are to be expended for programs or projects to provide technical skills training. Therefore, ACWIA grant resources to be utilized for the costs of administration will be limited to no more than 10 percent of the request and should clearly support the goals of the project. Administrative costs include such items as project staff, travel, and fungible supplies. In general, however, this does not contemplate or permit the purchase of capital equipment. The budget narrative should discuss precisely how the administrative costs support those goals.

• Part II must contain a technical proposal that demonstrates the Offeror's capabilities in accordance with the Statement of Work contained in this announcement. A grant application is limited to twenty (20) double-spaced, single-side, 8.5 inch × 11 inch pages with 1-inch margins. The Offeror may provide statistical information and related material in attachments. Attachments may not exceed fifteen (15) pages. Letters of commitment from partners or from those providing matching resources may be submitted as attachments; however, letters of support are not required. Such letters will not count against the allowable maximum page total. The Applicant must briefly enumerate those entities in the text of the proposal. Text type shall be 11 point or larger. Applications that do not meet these requirements will not be considered. Each application must include a Time Line outlining project activities and an Executive Summary not to exceed two pages. The Time Line and the Executive Summary do not count against the 20 page limit. No cost data or reference to price is included in the technical proposal.

C. Hand Delivered Proposals

If proposals are hand delivered, they must be received at the address identified above by September 19, 2000, at 4:00 p.m., Eastern Time. All overnight mail will be considered to be hand delivered and must be received at the designated place by 2:00 on the

specified closing date. Telegraphed and/or faxed proposals will not be honored. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

D. Late Proposals

A proposal received at the designated office after the exact time specified for receipt will not be considered unless it is received before award is made and it:

- Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., a proposal submitted in response to a solicitation requiring receipt of applications by the 20th of the month must be mailed by the 15th);

- Was sent by U.S. Postal Service Express Mail Next Day Service, Post Office to addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for proposals. The term "working days" excludes weekends and U.S. Federal holidays. The only acceptable evidence that an application was sent in accordance with these requirements is a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

E. Period of Performance

The initial period of performance will be up to 24 months from the date of execution of the grant documents. It is anticipated that about \$45 million will be disbursed. U.S. Department of Labor may elect to exercise its option to extend these grants for an additional period not to exceed 36 months, based on the availability of funding and successful program operation.

F. Definitions

For purposes of this solicitation:

- *Technical skills training* includes occupational skills training—that may combine academic and work-place learning and related instruction, customized training with a commitment of an employer or group of employers to employ an individual upon successful completion of training, and that may be tailored to meet the needs of the individual participant. Section 134 (d)(4)(D) of WIA provides a definition of training services that shall be viewed as generally applicable to the term "technical skills training" in this Solicitation. This definition of technical skills training specifically allows the use of grant funds to provide necessary books.

- *Region* means an area which exhibits a commonality of economic interest. Thus, a region may comprise a few labor market areas, one large labor market, one labor market area joined together with a couple of adjacent rural districts, a few special purpose districts, or a few contiguous local boards. Clearly, if the region involves multiple economic or political jurisdictions, it is essential that they be contiguous to one another. A region may be either intrastate or interstate. Although the rating criteria will provide more detail, it is the applicant's responsibility to demonstrate the regional nature of the area which that application covers. Also, a region may be coterminous with a single local board.

G. Sustainability

No applicant may receive a grant unless that applicant agrees to provide resources equivalent to at least 25 percent of the grant award amount as a match. That match may be provided in cash or in kind, however, Federal resources may not be counted against the matching requirement. In view of the fact that the singular focus of grant resources is to provide skill training, ETA particularly encourages the provision of essential capital equipment, such as computer equipment, as part of the match. The match will not be tied to the drawdown of funds, however, the amount and nature of it must be clearly described in the application.

The 25 percent matching requirement should be viewed as a minimum designed to assist grantees in developing sustainability. The Department is particularly interested that applicants demonstrate clear evidence through matched and/or leveraged resources (those Federal resources which may not be counted against match but which are integral to strengthening the quality of technical skills training provided and which contribute materially to sustainability) that the project will have the capacity to continue its training activities after the expiration date of the grant.

Part II—Statement of Work/Reporting Requirements

A. Principles

Five basic key principles underlie this effort:

- *Partnership Sustainability*: The grant awards will be of relatively short duration—up to 24 months. Although the primary focus of these awards is technical skill training, ETA intends that regional partnerships sustain themselves over the long term—well

after the federal resources from this initiative have been exhausted. The 25 percent non-Federal matching requirement is an integral part of ensuring sustainability; matching resources will help sustain the skill shortages training effort beyond the term of the grant. This concept relates to Links with Key Partners and Sustainability (What resources does each partner bring to the table and how does this contribution assist in building the foundation for a permanent partnership?)

- *Business Involvement*: Business is an essential partner. It articulates skill requirements, hires skilled workers, and provides support for lifelong learning. Under WIA, business plays a critical role in planning and overseeing training and employment activities. WIA requires that the majority of the membership of State and local boards be business representatives, and that the State and local board chairs be drawn from business. For the purpose of these grants, it is imperative that businesses represented include businesses with current skill shortages who intend to hire graduates of the technical skills training. This concept relates to three Rating Criteria: Statement of Need (Assists in determining what skill shortage occupations are in demand in the region), Linkages with Key Partners and Sustainability (What private sector involvement is there in the partnership; what resources does each of the partners bring to the table; how do contributions assist in building the foundation for a permanent partnership?), and Outcomes (Businesses involved in the partnerships will provide a key resource in hiring/upgrading workers who have been trained).

- *Current Skills Gap*: Current skill shortages are the immediate focus of this initiative. Training investments should be targeted in occupational areas that have been identified on the basis of H-1B occupations as skill shortage areas. This concept relates to Statement of Need (The most important issue to be addressed under this section is identifying the particular skill shortages that manifest themselves in the region.) and Service Delivery Strategy (How will skill training meet the skill needs of the region.)

- *Innovative and Effective Tools*: The grantees will use innovative or proven tools and approaches to close particular skills gaps and provide strategies for training that promote regional development. This concept relates to Service Delivery Strategy (There can be innovation in the way training services are provided.) and Cost Effectiveness (Innovative tools and approaches may

more effectively deliver training services to individual participants thereby resulting in better employment outcomes and higher levels of skill achieved by those participants for the same cost.)

- *Target Population:* The primary emphasis of the ACWIA technical skills training will be to focus on employed and unemployed workers who can be trained and placed directly in the highly skilled H-1B occupations. As part of identifying people with the appropriate backgrounds that would benefit from such training, there should be a special outreach effort to target women, minorities, persons with disabilities, and other underrepresented groups. This relates to the rating criterion, Target Population (Discussion of who the targeted workers are.)

B. Skills Shortages

Section 104(c) of ACWIA mandates that the grants awarded under this authority be used for technical skills training to employed and unemployed workers. The basis of the funding for the grants, however, is a user fee paid by an employer seeking nonimmigrant alien workers (H-1B) that possess qualifications in occupations with skill shortages at high skill levels in American industry. Thus, training conducted under these auspices should be in occupations that have been demonstrated to be in short supply. What is a skills shortage? In the simplest terms possible, such shortages occur in a market economy when the demand for skilled workers for a particular occupation is greater than the supply of workers who are qualified, available, and willing to do that job. Although, some of the explanations for why this demand or supply disequilibrium exists are fairly complex, the basic concept is straightforward. In many instances, labor markets adjust quickly and the skill shortage is resolved.

Problematic skills shortages occur when there is imbalance between worker supply and demand for an unusual period of time. The H-1B visa program is a response to those shortages, and this skill training grant program helps alleviate such shortages. It should be noted that the concept of skill shortages also may include an imbalance between the demand and supply of workers at some definable skill level.

C. Skills Standards

As noted earlier, the definition of the minimum proficiency level required to be considered an H-1B occupation, contained in section 214 (i) of INA, speaks to a very high skill level for these

“specialty occupations” (8 U.S.C. 1184 (i)). To reiterate, these are occupations that require “theoretical and practical application of a body of highly specialized knowledge,” and full state licensure to practice in the occupation (if it is required). These occupations also must require either completion of at least a bachelor’s degree or experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Skill standards represent a benchmark by which an individual’s achieved competence can be measured. Much work has been done in this area—some by private industry and trade associations, some by registered apprenticeship training systems, some by public and private partnerships, including local School-to-Work partnerships, and the Job Corps. Succinctly stated, well-defined skill standards can be a useful tool in matching training goals to targeted occupational areas. Applicants are encouraged to survey the progress to date in developing occupational skill standards in their communities. Do companies that will be seeking skilled workers for H-1B occupations have a clearly defined set of expectations for the requisite capabilities of those workers?

D. Regional Planning

Applicants must describe the local area or region that will be served with particular emphasis on its skill shortages. That discussion should include an articulation of the dimensions, nature and specifics of those skill shortages. The proposal must also identify the political jurisdictions to be included as well as provide an enumeration of the specific local areas under WIA. Although comprehensive occupational vacancy data do not exist, current H-1B applicant data should be utilized to the extent feasible to describe occupational shortages. Attachment A to this Solicitation is a listing by occupation of the most current H-1B applicant data. Applicants may take into consideration that occupations listed in high demand among those for which H-1B visas were sought nationally also might be in short supply in their region. However, applicants should avail themselves of all available local data including data provided by area businesses and business associations in making determinations as to shortages. They are encouraged to research widely and be inclusive in utilization of labor market information. In addition to the sources already described, applicants

are encouraged to analyze data made available by the Bureau of Labor Statistics and through the local One-Stop delivery system.

E. Service Delivery and Supportive Services

Applicants should carefully describe skill training that will be provided under the grant in context of the goals that are to be achieved by participants. These goals should be expressed in terms of targeted occupations. The Statement of Work should provide a detailed discussion of the kinds of training to be provided and the mechanisms to be used to provide it. Applicants also should build linkages to the One-Stop system established under WIA to reach out, inform, and recruit individuals to participate in the H-1B financed training. It is expected that the applicant’s work statement will include a discussion of the types of skills being trained for, the necessary skill levels that are targeted, how they will be measured, and how skill shortages in the local area or region will be met through this training.

The central role of the local boards in the planning and policy activity surrounding these grants is critical. WIA requires the local board to prepare a strategic workforce investment plan for the area that it embraces. The local board also designates One-Stop service center operators and selects eligible training providers. In short, local boards are already engaged in much of the necessary work that could provide a solid foundation for the training activities to be undertaken in ACWIA.

ACWIA requires that grant resources be used for technical skills training. However, ETA anticipates that applicants may need to make available a range of supportive services to enhance the quality and effectiveness of the skill training provided under the grant. Grant funds may not be used to provide supportive services. Appropriately focused services, however—such as transportation or child care and others defined by section 101(46) of WIA—could be viewed as an important factor enhancing the technical skills training package. To the extent that these services are provided utilizing non-Federal resources, applicants may present them as part of the proposed matching requirement. Federal resources such as coenrollment in WIA while participating in ACWIA training for supportive services clearly cannot be counted toward the matching requirement; however, such coordinated coenrollment and services are clearly desirable features of these projects. Successful applicants are encouraged to

leverage such Federal resources as part of making the technical skills training more effective.

F. Reporting Requirements

The Grantee is required to provide the reports and documents listed below:

- *Quarterly Financial Reports.* The grantee must submit to the Grant Officer's Technical Representative (GOTR) within the 30 days following each quarter, two copies of a quarterly Financial Status Report (SF269) until such time as all funds have been expended or the period of availability has expired.

- *Progress Reports.* The grantee must submit brief narrative quarterly reports to the GOTR within the 30 days following each quarter. Two copies are to be submitted; the report provides a detailed account of activities undertaken during that quarter including:

- a. A discussion of occupational areas for which skill training is being provided,

- b. Job placements in skill shortage occupations, and

- c. An indication of any current problems which may affect performance and proposed corrective action.

- *Final Report.* A draft final report which summarizes project activities and employment outcomes and related results of the demonstration shall be submitted no later than the expiration date of the grant. The final report shall be submitted in 3 copies no later than 60 days after the grant expiration date.

G. Evaluation

ETA will arrange for or conduct an independent evaluation of the outcomes, impacts, and benefits of the demonstration projects. Grantees must agree to make available records on participants and employers and to provide access to personnel, as specified by the evaluator(s) under the direction of ETA.

Part III—Review Process and Rating Criteria

A careful evaluation of applications will be made by a technical review panel who will evaluate the applications against the criteria listed below. The panel results are advisory in nature and not binding on the Grant Officer. The Government may elect to award the grant with or without discussions with the offeror. In situations without discussions, an award will be based on the offeror's signature on the (SF) 424, which constitutes a binding offer. Awards will be those in the best interest of the Government.

A. Statement of Need (15 points)

The underlying statute authorizing this competitive grant program—ACWIA—is a response to skill shortages around the country in specific occupations. ETA has provided the most recent H-1B application data as an attachment to this solicitation. The most important issue to be addressed under this section is identifying, to the extent possible, the particular skill shortages that manifest themselves in the region that is encompassed by the application. Applicants are encouraged to utilize all available data resources—H-1B applications, newspaper want ads, expressed employer consortium hiring desires, and One Stop system's labor market information—in responding to this criterion. To provide a focused backdrop for the discussion of skill shortages, applicants should describe clearly the region for which services are to be provided. What are the characteristics that make this area a cohesive region? What are the particular characteristics of the local political, economic and administrative jurisdictions—local workforce investment boards, labor market areas, special district authorities—that caused them to associate for the purpose of this application? There are several useful items of information that could be provided to enhance the description of the region. A general discussion of the region should include socioeconomic data—with a particular focus on the general education and skill level prevalent in the area. Also, it is useful to include such items as transportation patterns, demographic information (such as age and general income of residents). Judicious use of statistical information is encouraged. Other pertinent questions that will provide greater depth of description include: What is the general business environment? What industries and occupations are growing, and which ones are cutting back? What are the characteristics of the major employers in the region? What is the particular situation of the consortium member companies?

B. Service Delivery Strategy (30 points)

Applicants must lay out a comprehensive strategy for providing the technical skills training that is mandated as the core activity of these grant awards. Concomitantly, there needs to be a discussion of how this skill training will meet the skill needs of the region. Several specific issues must be focused on as part of this section. Those issues include:

What is the range of potential training providers, what kinds of skill training will be offered, how will that meet the regional skill needs, and how will training be provided? How will the types of training planned for project participants be determined? Also, although there is a separate section on outcomes, it is strongly recommended that some brief mention in context of the service delivery strategy, be made of them here. Such outcomes would include job placements in skill shortage occupations, increased salary, and measurable skill gains or certificates obtained that demonstrate how the training will alleviate skill shortages.

Supportive services, per se, are not an allowable activity with grant funds. However, making such services available on an as needed basis (utilizing other available resources) is encouraged. Innovation in the context of service delivery can represent a wide variety of items. There can be innovation in the way training services are provided—e.g., distance learning to provide instruction, interactive video self-instructional materials, and flexible class scheduling (sections of the same class scheduled at different times of the day to accommodate workers whose schedules fluctuate). Creativity in developing the service strategy is also encouraged.

C. Target Population (10 points)

The eligibility criterion for skill training enumerated in ACWIA is extremely broad—employed and unemployed workers. This section should include an extensive focused discussion of who the targeted workers are, including their characteristics, and why they are being targeted. A discussion of what assessment procedures are to be used is integral. In the case of employed workers, there should be some articulation of what is to be accomplished. The applicant should address some specific issues relating to the target employed worker population such as:

- How many employed workers will be targeted for services and why?

- What are the technical skills training needs of those workers to fulfill skill shortage occupations? In the case of unemployed workers, there needs to be an extensive discussion of criteria to be used to assess and enroll individuals. It is true that the target occupations and specific jobs to be trained for within the H-1B rubric are statutorily geared to a very high skill standard. It is extremely important that the selection process for workers be carefully described to make it clear how those individuals will possess the capacity after the

completion of training to take jobs that previously were filled by resorting to the H-1B visa process. In particular, the applicant should describe with precision the methods that will be used to reach out and include minorities, women, and individuals with disabilities who can meet these standards.

D. Sustainability (5 points)

There is a 25 percent matching requirement. To what extent does any of these partners provide matching funds or services and how does this contribution assist in building the foundation for a permanent partnership, *i.e.*, sustainability? As noted earlier, Federal resources cannot be counted against the matching requirement; however, it is important that such resources be provided as part of the project because they certainly support and strengthen the quality of the technical skills training provided in the project and contribute materially toward sustainability. ACWIA resources are limited to training individuals to fill high skill H-1B jobs, however, applicants will be given preference for enumerating other resources -Federal and non Federal—because they can contribute materially toward sustainability. For example, local boards could commit through One-Stop centers such valuable participant services as participant assessment and case management. Applicants are encouraged to enumerate these resources under this section to support their discussion of sustainability. This section should also enumerate any specific existing contractual commitments. Briefly stated, the sustainability issue can be addressed by providing concrete evidence that activities supported by the demonstration grant will be continued after the expiration date of the grant using other public or private resources.

E. Linkages With Key Partners (15 points)

The applicant should enumerate who the partners are in this endeavor and how they will link together—*i.e.*, what role each will play. In particular, this section should articulate ties to the private sector, including ties with small- and medium-sized businesses and small business federations. The Service Delivery Strategy section of the Statement of Work described the role each of the actors would play in providing services. This section looks at

the linkages from a somewhat different more structural perspective with particular emphasis on the employers in the consortium that are experiencing skill shortages. What resources does each partner bring to the table? The application will specify a management entity (together with a staffing pattern and resumes of major staff members) and will articulate with some precision the roles of various actors. Each application MUST designate an individual who will serve as project director and who will devote a substantial portion of his/her time to it. (For purposes of this requirement, a substantial portion of time is defined as at least 40 percent.) A short portion of this discussion should dwell upon the organizational capacity and track record of the primary actors in the partnership.

F. Outcomes (15 points)

Applicants must describe the predicted outcomes resulting from this training. It is posited that the projected results will be somewhat varied given the broad range of people that will probably be served. For example, employed workers may be trained to achieve a higher skill level than most unemployed workers. Their success could manifest itself through job placements in H-1B skill shortage occupations, increased wages, or skill attainment in H-1B occupations. There are, however, unemployed workers who may well already possess a very high skill level. They could receive refresher technical skills training to update their skills. The outcomes for this group may also be projected in terms of gaining employment and skills attainment; those outcomes would simply be at a somewhat higher level than for those unemployed workers who do not possess similar skills at the outset. Ideally, the applicant's outcomes section will describe some version of a relatively cohesive mosaic that weaves together the outcomes for both employed and unemployed workers in the context described in the preceding three paragraphs. Additionally, the outcomes section should focus very specifically on the changes that occur because of the training. Thus, an applicant might state that a certain skill level is projected for a given group; but the applicant should couch that outcome in context of what the initial pre-training skill level had been for the group.

G. Cost Effectiveness (10 points)

Applicants will provide a detailed cost proposal including a discussion of the expected cost effectiveness of their proposal in terms of the expected cost per participant compared to the expected benefits for these participants. Applicants should address the employment outcomes and the levels of skills to be achieved (such as attaining State licensing in an occupation) relative to the amount of training that the individual had to receive to achieve those outcomes. Benefits can be described both qualitatively in terms of skills attained and quantitatively in terms of wage gains. Cost effectiveness may be demonstrated in part by cost per participant and cost per activity in relation to services provided and outcomes to be attained. This section MUST contain a detailed discussion of the size, nature, and quality of the non-Federal match. Proposals not presenting a detailed discussion of the non-Federal match or not meeting the 25 percent match requirement will be considered nonresponsive. Applicants are advised that discussions and/or site visits may be necessary in order to clarify any inconsistencies in their applications. The reviewers' evaluations are only advisory to the Grant Officer. The final decisions for grant award will be made by the Grant Officer after considering the panelists' scoring decisions. The Grant Officer's decisions will be based on what he or she determines is most advantageous to the Federal Government in terms of technical quality and other factors.

Signed in Washington, D.C. , this 26th day of July 2000.

Laura A. Cesario,
Grant Officer.

Appendix A: Selected H-1B Professional, Technical and Managerial Occupations, and Fashion Models: Number of Job Openings Certified by the U.S. Department of Labor, Fiscal Year 1999 (Oct. 1, 1998–May 31, 1999).

Appendix B: (SF) 424–Application Form.
Appendix C: Budget Information Form.

Appendix A—Selected H-1B Professional, Technical and Managerial Occupations, and Fashion Models: Number of Job Openings Certified by the U.S. Department of Labor, Fiscal Year 1999 (Oct. 1, 1998—May 31, 1999)

Occupational code	Occupational title	Number of openings certified
030	Occupations In Systems Analysis And Programming	360,745

Occupational code	Occupational title	Number of openings certified
076	Therapists	181,665
160	Accountants, Auditors, And Related Occupations	35,665
039	Other Computer-Related Occupations	28,529
003	Electrical/Electronic Engineering Occupations	16,859
070	Physicians And Surgeons	11,264
019	Other Occupations In Architecture, Engineering And	11,175
090	Occupations In College And University Education	9,028
199	Miscellaneous Professional, Technical, And Manager	8,964
189	Miscellaneous Managers And Officials	8,824
007	Mechanical Engineering Occupations	7,115
050	Occupations In Economics	5,608
163	Sales And Distribution Management Occupations	5,368
033	Occupations In Computer Systems Technical Support	4,573
161	Budget And Management Systems Analysis Occupations	4,263
169	Other Occupations In Administrative Occupations	4,135
031	Occupations In Data Communications And Networks	4,121
041	Occupations In Biological Sciences	3,981
079	Other Occupations In Medicine And Health	3,764
012	Industrial Engineering Occupations	2,725
186	Finance, Insurance And Real Estate Managers And Off	2,624
020	Occupations In Mathematics	2,599
001	Architectural Occupations	2,490
141	Commercial Artists: Designers & Illustrators, Graphics	2,371
297	Fashion Models	2,367
092	Occupations In Preschool, Primary, Kindergarten Ed	2,359
187	Service Industry Managers And Officials	2,347
022	Occupations In Chemistry	2,345
005	Engineering Occupations	2,186
032	Occupations In Computer System User Support	1,595
091	Occupations In Secondary School Education	1,579
110	Lawyers	1,353
029	Other Occupations In Mathematics And Physical Sciences	1,306
131	Interpreters and Translators	1,270
166	Personnel Administration Occupations	1,229
165	Public Relations Management Occupations	1,216
185	Wholesale And Retail Trade Managers And Officials	1,183
008	Inspectors And Investigators, Managerial & Public	974
142	Environmental, Product And Related Designers	955
119	Other Occupations In Law And Jurisprudence	882
099	Other Occupations In Education	841
023	Occupations In Physics	836
010	Mining And Petroleum Engineering Occupations	777
164	Advertising Management Occupations	773
132	Editors: Publication, Broadcast, And Script	748
078	Occupations In Medical And Dental Technology	699
183	Manufacturing Industry Managers And Officials	681
184	Transportation, Communication, And Utilities Management	659
049	Other Occupations In Life Sciences	612
162	Purchasing Management Occupations	604
040	Occupations In Agricultural Sciences	574
074	Pharmacists	508
159	Other Occupations In Entertainment And Recreation	506

Technical Note: The Immigration and Nationality Act (Act) assigns responsibility to the Department of Labor with respect to the temporary entry of foreign professionals to work in specialty occupations in the U.S. under H-1B nonimmigrant status. Before the Immigration and Naturalization Service will approve a petition for an H-1B nonimmigrant worker, the employer must have filed and had certified by the Department a Labor Condition Application. The employer must indicate on the application the number of H-1B nonimmigrant workers sought, the rate of

pay offered to the nonimmigrants, and the location where the nonimmigrants will work, among other things.

The Act limits the number of foreign workers who may be assigned H-1B status in each fiscal year, however, there is no limit on the number of job openings that may be certified by the Department. Historically, the actual number of job openings certified by the Department each year far exceeds the number of available visas. This excess in the number of certified openings is due to a number of factors: extension of status filings

that are not subject to the annual cap; openings certified for anticipated employment that does not transpire; or movement from one employer to another (again, not subject to cap).

The occupational codes in the left-hand column represent the three-digit occupational groups codes for professional, technical and managerial occupations from the Dictionary of Occupational Titles (DOT).

BILLING CODE 4510-30-P

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|--------------|--|--------------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable) | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided.

- "New" means a new assistance award.
- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project. | | |

APPENDIX C

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. **Personnel:** Show salaries to be paid for project personnel which you are required to provide with W2 forms.
2. **Fringe Benefits:** Indicate the rate and amount of fringe benefits.
3. **Travel:** Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.
4. **Equipment:** Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of \$5,000 or more. Also include a detailed description of equipment to be purchased including price information.
5. **Supplies:** Include the cost of consumable supplies and materials to be used during the project period.
6. **Contractual:** Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.
7. **Other:** Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.
8. **Total, Direct Costs:** Add lines 1 through 7.
9. **Indirect Costs:** Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.
10. **Training /Stipend Cost:** (If allowable)
11. **Total Federal funds Requested:** Show total of lines 8 through 10.

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE: PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

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DEPARTMENT OF LABOR

**Employment and Training
Administration**

**Solicitation for Grant Applications
(SGA) Workforce Investment Act of
1998; Minority Colleges and
Universities Workforce Partnerships
and Training Strategies To Address
Skill Shortages Demonstration
Program**

AGENCY: Employment and Training
Administration, Labor.

ACTION: Notice of availability of funds
and Solicitation for Grant Applications
(SGA).

This notice contains all of the
necessary information and forms needed
to apply for grant funding.

SUMMARY: The U.S. Department of Labor
(DOL), Employment and Training
Administration (ETA) announces a
competitive demonstration solicitation
for grant applications (SGA) to respond
to employers' identified skill shortages
through the establishment or

strengthening of regional consortia. Grants will be made to successful applicants representing minority colleges and universities which provide evidence of being positioned to plan and implement a successful strategy to respond to shortages of workers seeking employment with skills needed by specific employers in a regional labor market (including typical local commuting area). Successful applicants must also initiate a skill training design for preparing eligible dislocated workers, incumbent workers and new entrants into the workforce that will alleviate skill shortages within the region which the applicant represents and provide the necessary skill sets to those seeking new employment or reemployment. DOL will convene an informational session in early August to share information with eligible applicants and other interested parties. Refer to Pre-Application Information Session.

The funding for this program will be the demonstration authority of the Secretary as appropriated for Title I, Section 171(b) (1) and (2) of the Workforce Investment Act of 1998 and administered in accordance with 29 CFR parts 95 and 97, as applicable. Applicants are encouraged to become familiar with the provisions of the Workforce Investment Act of 1998 (WIA). With the implementation of WIA which became effective July 1, 2000, and for the next few years, it is anticipated that even greater emphasis will be placed on regional and unified planning and other initiatives to accommodate or address regional workforce development concerns. It is expected that the consortia established or strengthened as a result of the award of these demonstration grant funds will actively collaborate with the emerging structures of WIA implementation.

The Department encourages interested applicants to consult with other ongoing programs such as grantees funded by the June 1998 \$7.7 million dislocated worker technology demonstration, June 1999 \$10 million manufacturing technology demonstration program and the June 2000 \$11.2 million skill shortages, partnership training/system building demonstration program. Information regarding these demonstrations may be found at <http://www.doleta.gov>.

Two types of demonstration grants to address skill shortages will be available under this solicitation—(1) Three to nine partnership building grants of up to \$750,000 and (2) up to three training grants in the approximate range of \$1.5 to \$2 million. Each type of grant (partnership building and skill shortage

training) will require coordination and collaboration with the local workforce investment system.

In addition, experiences gained through current regional initiatives may provide insight into developing a regional consortia approach to addressing workforce development needs and strategies for partnership building grants as well as training grants. The partnership building grants funded as a result of this SGA to address skill shortages will also support assessment of community employment needs (community audits), designing or adapting training curricula based upon specific employer needs, and limited operational testing of a training design. Partnerships and systems for responding to skill shortages developed as a part of this demonstration will be expected to continue, and indeed improve and expand, after the conclusion of this initiative. One objective of this demonstration initiative is to assist minority colleges and universities in developing and sustaining an active partnership with local workforce investment boards and chief elected officials in the addressing strategies and training programs that respond effectively to area employers' needs for skilled workers. Of particular interest to the Department are broad-based strategies that address such issues as shortages in technology, health care, and H-1B visa-identified occupations.

Consortia developed in response to this solicitation could also be appropriate applicants to apply for skill training grants established under the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA). Potential grants under the ACWIA authority would provide additional funding to address the skill shortages identified under this grant, and could utilize the information gained from pilot testing the training curriculum to ensure an effective skill training delivery approach. Eligible applicants for the ACWIA grants are limited by statute to local Workforce Investment Boards (WIBs) under Section 117 of the Workforce Investment Act of 1998 (WIA), and consortia of WIBs. For this reason, WIB participation in activities conducted under the Partnership Building grants will be a requirement to show satisfactory progress toward achieving the objectives of this demonstration program for receipt of Phase II Implementation funding.

Training grants funded under this SGA will test the ability of minority colleges and universities to partner with the local workforce investment system with employers, training providers and

others to train participants in the skills necessary to obtain work in occupations and industries experiencing shortages of such workers. In order to assure that the training provided under the grant is consistent with workforce development plans for the local area and to prepare the local area to possibly sustain the training activity by applying for a skill training grant under the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), the local Workforce Investment Board(s) must be an active partner in planning for the training including the determination that the proposed training is consistent with employer-identified skill needs in the community. The application must contain a statement from the local Workforce Investment Board(s) explaining its role as the policy decision-making entities for the targeted geographic area(s) as well as the role its One Stop operator(s) will play in the planned service delivery activities.

DATES: The closing date for receipt of the application is Friday, September 22, 2000. Applications must be received by 4 p.m. eastern standard time. No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Applications that do not meet the conditions set forth in this notice will not be considered. Telefacsimile (FAX) applications will not be honored.

ADDRESSES: Applications must be mailed or hand-delivered to: U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Mamie D. Williams, Reference: SGA/DFA 00-109; 200 Constitution Avenue, N.W., Room S-4203; Washington, DC 20210.

Hand Delivered Proposals. If proposals are hand delivered, they must be received at the designated address by 4:00 p.m., Eastern Standard Time on Friday, September 22, 2000. All overnight mail will be considered to be hand delivered and must be received at the designated place by the specified closing date and time. Telegraphed, e-mailed and/or faxed proposals will not be honored. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

Late Proposals. A proposal received at the designated office after the exact time specified for receipt will not be considered unless it is received before the award is made and it:

- Was sent by U.S. Postal Service registered or certified mail not later than the fifth (5th) calendar day before the closing date specified for receipt of applications (e.g., an offer submitted in

response to a solicitation requiring receipt of applications by the 20th of the month must be mailed by the 15th);

- Was sent by U.S. Postal Service Express Mail Next Day Service, Post Office to Addressee, not later than 5 p.m. at the place of mailing two working days prior to the deadline date specified for receipt of proposals in this SGA. The term "working days" excludes weekends and U.S. Federal holidays.

The only acceptable evidence to establish the date of mailing of an application received after the deadline date for the receipt of proposals sent by the U.S. Postal Service registered or certified mail is the U.S. postmark on the envelope or wrapper affixed by the U.S. Postal Service and on the original receipt from the U.S. Postal Service. The term "post marked" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

Withdrawal of Applications.

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

FOR FURTHER INFORMATION CONTACT:

Questions/clarifications should be faxed to Mamie D. Williams, Grants Management Specialist, Division of Federal Assistance at (202) 219-8739 (this is not a toll free number). All inquiries should include the SGA/DFA 00-109 and contact name, fax and phone number. This solicitation will also be published on the Internet, on the Employment and Training Administration (ETA) Home Page at <http://www.doleta.gov>. Award notifications will also be published on the ETA Home Page.

SUPPLEMENTARY INFORMATION: ETA is soliciting proposals on a competitive basis for the conduct of partnership system-building activities to assist minority colleges and universities in partnership with local Workforce Investment Boards and interested employers in developing the capacity to plan and implement regional skill shortage training strategies. It is envisioned that the consortia developed under this grant will focus on serving a regional labor market area. The area to be served may be multi-jurisdictional, and could be multi-State depending on

the geographic area encompassing the regional labor market area.

This announcement consists of five (5) parts:

- *Part I—Background Summary:* describes the authorities, the purpose and the goals of the solicitation for this demonstration program;

- *Part II—Eligible Applicants and Application Process:* describes the organizations authorized to apply for funds under this program, the application process and requirements for submitting an application (deadlines);

- *Part III—Statement of Work:* contains the Statement of Work for the two types of projects that will be funded under this demonstration initiative;

- *Part IV—Monitoring, Independent Evaluation and Reporting Requirements:* provides for the monitoring of the grants by DOL staff to determine the project's performance, an independent evaluation of the grants awarded for this demonstration and describes the reviews that will be conducted by DOL of each of the projects; and notes the requirements for reports to DOL and the independent evaluator; and

- *Part VI—Rating Criteria for Award and Selection Process:* describes the selection process, including the criteria for each type of demonstration application which will be used in reviewing and evaluating all applications received by DOL as a result of this solicitation.

See Appendix "C" for definitions

Part I. Background

A. Authority

Title I, Section 171(d) of the Workforce Investment Act authorizes the use for demonstration programs of funds reserved under section 132(a)(2)(A) and establishes the administration of these funds by the Secretary for that purpose under section 173(b). In addition, the DOL FY 2000 Appropriations Act enacted November 17, 1999 authorizes dislocated worker demonstration projects that provide assistance to new entrants in the workforce and incumbent workers.

B. Purpose

The growth in the U.S. economy and the increasing global competition that has occurred throughout the 1990's has been accompanied by significant restructuring actions regarding the organization and performance of work in many industries. These actions have redefined the job performance requirements in these industries and have resulted in the dual effects of substantial numbers of worker layoffs

and of reported shortages of workers skilled in other areas.

As a result, employers and employees alike are facing increasing challenges in their efforts to remain competitive. Increased competition, along with other factors such as reductions in the defense industry, relocation of facilities outside the United States, and technological advances in manufacturing processes, have resulted in significant reductions in the size of many employers' workforces. The increased adoption of technology has resulted in the realization that the skills of many workers are redundant and must be upgraded in order for them to be able to compete in the current economy and for them to be successful candidates for available jobs in the future.

Despite the generally strong economy, pockets of Americans are at risk of being left behind the rest of the country. In an effort to encourage minority colleges and universities to partner with regional workforce investment leaders to address the challenge of keeping all citizens employed and competitive and ensuring the health of the businesses on which communities depend for their economic stability, this initiative will allow for the maximum flexibility in approaches to establishing and/or enhancing partnerships that will address skill shortages now and in the future.

Part II. Eligible Applicants and the Application Process

A. Eligible Applicants

Any minority college or university referred to in the following Executive Orders designed to strengthen the capacity of such institutions to provide quality education and increase the opportunities for them to participate in and benefit from Federal programs which are capable of fulfilling the terms and conditions of this solicitation may apply:

- Executive Order Number 12876 Historically Black Colleges and Universities issued November 1, 1993
- Executive Order Number 12900 Educational Excellence for Hispanic Americans issued February 22, 1994
- Executive Order Number 13021 Tribal Colleges and Universities issued October 19, 1996

Although present DOL demonstration grantees who have received awards addressing skill shortage training issues are not directly eligible for this grant. They may participate as a member of a local area consortium addressing which addresses a skill shortages for which the local area is not already receiving demonstration grant funds.

B. Demonstrated Capacity

Partnership Building Grant awards will be made to applicants that demonstrate to the satisfaction of the Department the capacity in conjunction with the local workforce investment system(s) (under the policy direction of the local board(s) and chief elected officials) and other partners to—

1. develop a collaborative, integrated regional approach for the involvement, design and implementation of a comprehensive skill shortage action plan. The basic design of the plan shall be sufficiently robust to respond to current and projected skill shortages in the region;
2. collect information on current (real time) local employer based skill needs and the availability of workers who possess such skills in the labor market and available training resources to meet the established or developed standards of the local employer or industry;
3. design a training strategy, that may include curricula, to respond to at least one specific skills shortage that currently exists in the region;
4. test the plan on a small scale, by implementing the training strategy developed and placing those trained in related employment that meets or exceeds the outcome goals of the grant; and
5. incorporate lessons learned into the local workforce investment system(s).

Note: As discussed later in this SGA, these areas of expertise are not viewed or presented by the Department as discrete or sequential activities, but rather to delineate the expected capacity of any successful candidate's application for funding under this Solicitation.

Training Grants will be made to applicants that demonstrate to the satisfaction of the Department the capacity to engage with workforce investment partners especially employers, workforce investment boards and local One-Stop operators to provide resources for skill training in occupations that are in employer demand. Measures of this demand could include data from employer surveys, review of local employment advertisements, job order listings at the local One-Stop, and employer H-1B applications.

C. Financial Management Capability

The applicant must demonstrate to the satisfaction of the Department that it has the financial management capacity to receive federal funds in accordance with Sections 184 and 185 of the Workforce Investment Act. A consortium organized by the applicant for the purpose of responding to this SGA must designate one entity of the

group as the fiscal agent to manage the funds in the event an award is granted.

D. Cooperation With DOL, Technical Assistance Contractor and the Independent Demonstration Evaluation Contractor

An applicant must also commit to sharing on-going information with DOL and its independent evaluators. An applicant may propose to use grant funds to purchase technical assistance support for the project from sources known to the applicant. The Department will make technical assistance available to the grantee during the course of the grant activities. The technical assistance contractor will visit the grantee and, in coordination with the grantee and other consortium members, assist in identifying the topic or operational areas in which technical assistance would be helpful. The grantee and its partners may then determine which areas would be most beneficial and set priorities for the use of such assistance. A maximum number of hours of technical assistance per demonstration grantee will be established at the time of the grant award. The applicant must agree to participate with the DOL technical assistance contractor in its progress assessments. As part of the acceptance of a grant award the applicant agrees to participate in conference calls during the course of the demonstration and attend and conduct workshops at conferences and other meetings to assist with further guidance throughout the workforce investment system, as necessary and appropriate. A reasonable amount of grant funds may be earmarked for this purpose.

E. Partnerships

The establishment of creative partnership configurations that include representatives of employers with skill shortages and are broadly representative of community interest is strongly encouraged. It is highly recommended that applicants submit a statement (or chart) that shows how the actual or proposed configuration represents fully the community at large and how each partner adds value to the skill shortage assessment and planning process. Other federal partners, where present and appropriate, are suggested for inclusion in any consortium, such as the U.S. Department of Commerce Manufacturing Extension Program, Department of Housing and Urban Development neighborhood and community enhancement programs and others.

F. Support From Partners

The partnerships that are being established are an important part of any

application. Partnership Building grant applicants are strongly encouraged to include letters of support signed by proposed consortium members, including the local WIB chair(s). Consideration should be given to demonstrations of support from representatives of key groups who are likely to have a significant impact on the likely success of this project in the region, such as employer associations, curriculum developers, etc. Grant-funded partnership-building activities operating in the local workforce investment area should be viewed as a mechanism to improve the capacity of the area to address skill shortages and to provide the types of training opportunities that result in improved outcomes for workers and an adequate supply of trained workers for employers.

1. The Partnership Building grant application must also describe a preliminary agreement of key regional stakeholders (beyond the required parties described above) to those activities to be undertaken in the course of operation described in the application, as well as a description of other organizations or individuals who are likely to be added to the list of collaborators, and what they are expected to contribute to the initiative.

Appropriate partners to serve as part of the consortium to be formed include local Workforce Investment Boards (WIBs) or consortia of WIBs; employers; business and trade associations; labor unions; other post-secondary educational institutions including community colleges; economic development agencies, and private-sector led groups including community- and faith-based organizations addressing the needs of specific cultures, among others.

Regional consortia may be interstate in composition to accommodate adequate coverage of cohesive labor markets or regional communities, including typical commuting patterns. No minimum size for the geographic or labor market to be covered by this demonstration program has been established, and the smallest grants may cover single local workforce investment areas or portions thereof. A key goal of this initiative is to encourage regional approaches to cover the commuting area from which employers in the region draw or hire their employees.

2. Training grant applicants must partner with the local Workforce Investment Board(s), which forms the policy-making body for local workforce investment activities. Applicants are also strongly encouraged to partner with other entities which possess a sound

grasp of the job marketplace in the region and which are in a position to assist in addressing the issue of skill shortage occupations. Such organizations would include private, for profit business—including small and medium-size business; business, trade, or industry associations such as local Chambers of Commerce and small business federations; and labor unions. While the Department is not prescriptive as to the partners required, beyond requiring comments from the WIB, in the past those grantees with strong private employer involvement have been particularly successful in achieving their grant's planned placement outcomes.

Pre-Application Information Session

Applicants interested in becoming a demonstration grantee are encouraged to attend a Pre-Application information session which will be held in Greensboro, North Carolina on August 10, 2000, on the campus of Bennett College. The purpose of this all-day session is to summarize the current knowledge about workforce partnerships, approaches to skill shortages and the basics of preparing an application in response to a grant solicitation. The session will review the goals and objectives of the demonstration project and explain the two phase methodology planned for funding of the demonstration grants. Attendees will learn about the technical assistance services that will be provided to grantees. This session is being offered, free of charge, to prospective applicants on a space-available basis. Attendees will, however, have to pay for their own travel and lodging. Attendance at this session is strongly encouraged but voluntary and no written summary of the meeting will be distributed. Further information about this session, the registration process, meeting agenda and availability of lodging can be found on the DOL web page www.usworkforce.org or by calling America's Workforce Network Toll-Free Telephone Number: 1-877-US-2JOBS.

Proposal Submission

Applicants must submit four (4) copies of their proposal, with original signatures. The introductory paragraph of the application must state the type of grant for which the proposal is directed—(1) a Partnership Building grant or (2) a Training grant. The proposal must consist of two (2) distinct parts, Part I and Part II.

Part I of the proposal shall contain the Standard Form (SF) 424, "Application for Federal Assistance" (Appendix #A) and Budget Form (Appendix #B). The

Federal Domestic Assistance Catalog number is 17.246. Applicants shall indicate on the SF 424 the organization's IRS status, if applicable. According to the Lobbying disclosure Act of 1995, section 18, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan. The individual signing the SF 424 on behalf of the applicant must represent the responsible financial and administrative entity for a grant should that application result in an award.

The budget (Appendix #B) shall include on separate pages a detailed breakout of each proposed budget line item found on the Budget Information Sheet, including detailed administrative costs. An explanation of how the budget costs were derived must be included. The Salaries line item shall be used to document the project staffing plan by providing a detailed listing of each staff position providing more than .05 FTE support to the project, by annual salary, number of months assigned to demonstration responsibilities, and FTE percentage to be charged to the grant. In addition, for the Contractual line item, list each of the planned contracts and the amount of the contract. Where a contract amount exceeds \$75,000, a detailed backup budget to show how the amount of the contract was derived must be included. For each budget line item that includes funds or in-kind contributions from a source other than the grant funds, identify the source, the amount and in-kind contributions, including any restrictions that may apply to these funds.

DOL will convene a two-day grantee orientation meeting in Washington, DC. Attendance will be mandatory for all grantees for this demonstration program. We anticipate this meeting to be scheduled within 45 days of the award of grants to allow sufficient time to have all project managers present as well as other appropriate representatives of the regional consortia in attendance. Travel for three individuals (one to be a WIB representative) to attend this meeting as well as at least one other meeting to be convened during the course of the grant's period of performance should be included in the grant budget.

Part II must contain a technical proposal that demonstrates the applicant's capabilities in accordance with the Statement of Work contained in this document. The grant application is limited to 25 one-sided, double-spaced pages with 12 point font size on 8.5 x 11 inch paper with 1-inch margins which *must* include the following:

- I. Executive summary—(1 page)
- II. Application narrative technical proposal
- III. Time line implementation plan and the appendix

The 25 page limitation includes all attachments.

Funding/Period of Performance

It is anticipated that up to \$12 million will be available for funding these demonstrations. It is expected that 6 to 12 awards will be made, depending upon the quality of the proposals received and the amount of funds requested and awarded. The maximum grant award will be \$750,000 for Partnership Building grants (maximum of nine awards) and \$2 million for Training grants (maximum of three grant awards).

1. For Partnership Building grant, twenty percent of the grant amount, up to a maximum of \$100,000, will be made available upon announcement of the grant award. The funds will be released in phases: (1) Phase I: Plan Development; and, (2) Phase II: Implementation—this phase will only take place pending approval of the grant plan by DOL. Further directions regarding the expected products to be provided to indicate completion of Phase I: Plan Development will be provided by DOL at the grantee orientation meeting. The remaining grant funds will be made available based upon achievement of progress benchmarks consistent with the purposes of the Workforce Investment Act and this demonstration initiative.

2. For Training grants, the full amount of the grant will be available upon announcement of the grant award.

The maximum duration of any demonstration project under this SGA will be 30 months, beginning on the date of a signed award. This includes closeout time and preparation of the draft final report. Successful grantees will be expected to commence operations within 30 days of the award date. If the applicant anticipates that a period longer than the 30 days will be required prior to commencing operations, it should be stated in the application and provide an explanation for the expected delay.

Training grants shall be required to commence the delivery of services to participants within 90 days of execution of a grant unless a significant portion of the grant implementation addresses the development of new curriculum or planning strategies. If participant enrollments are not anticipated to occur within 90 days, the circumstances should be specifically addressed in the application with the reasons provided and an alternative time frame provided.

Option To Extend

DOL may elect to exercise its option to extend either type of grant offered under this solicitation for an additional one (1) or two (2) years of operation, based on the availability of demonstration funding under the Workforce Investment Act, successful program operation, and the determination that a grantee's initial program findings could further inform the workforce development system through refinement of the present demonstration. However, in most cases, future funding is expected to be the responsibility of all stakeholders, including employers, local Boards and other members of the community.

Part III—Statement of Work

A. Background

On January 12, 1999, during his summit on 21st Century Skills for 21st Century jobs, Vice President Gore announced a major new skills shortage initiative to accomplish two purposes:

- To promote the creation of regional consortia to assess employers' need for skilled workers and workers' skills deficits, and
- To provide resources to established partnerships to provide technical skill training to incumbent and unemployed workers.

Traditionally, overall tight labor markets and even skill shortages are good for workers in that they can lead to rising wages, improved working conditions, and new opportunities for workers and new labor market entrants. However, problematic regional or sectoral industry skills shortages—those that occur when there is imbalance between worker supply and demand for a persistent period of time—can mean that particular goods and services are not provided and that the economy is operating less efficiently than it could. At the microeconomic level, i.e., for individual employers, the inability to find an adequate supply of workers even after offering higher wages and better working conditions can cause a loss of business and profits.

B. Purpose

1. Partnership building grants will support minority colleges and universities in their creation of, or membership in, regional alliances for the development and implementation of skills training strategies focused on qualifying significant numbers of minorities to work within the identified occupations at specific companies experiencing such shortages. This initiative acknowledges that communities and regions will be at

different starting points in their responses to skill shortages. It is envisioned that this demonstration will be used as a catalyst to build a coalition of community-wide leaders, including those from the applicant colleges and universities, to work with specific employers to identify skill shortages and then develop processes for ameliorating or eliminating them or to strengthen an existing partnership.

2. Training grants will enable minority colleges and universities to provide specific training in occupations experiencing skill shortages which have been identified by employers to assure minority participants access to jobs in growth occupations. Successful applications may be based on the use of innovative service strategies such as the involvement of traditionally under represented groups of dislocated workers for existing training programs; the development and use of curricula geared specifically to eligible groups of dislocated workers and the needs of employers with openings in skill shortage occupations; or the development of concentrated training models for workers with a residue of skill knowledge from previous related employment, or use of curriculum and skills training interventions designed to impart knowledge, skills and abilities of industry skill standards (where available or under development).

A major challenge, then, in addressing both types of grant applications, becomes how does a local workforce investment system work with employers to identify the skills they need, develop the necessary training to respond to the need, and outreach to the workers who are being laid off soon enough to acquire the skills needed for the jobs that employers have. This means that training curricula must be flexible and easily adjusted or reconfigured to meet employer needs in a timely and responsive manner as they respond to industry technological advances, market changes, new certification requirements and other changes. This approach is distinctly different from the general academic setting, and this type of flexibility and responsiveness will require substantial commitment on the part of the institution and its leadership.

Another challenge to the community is how to encourage individuals currently in the workforce to continually upgrade their skills (life-long learning) so that if a layoff occurs the transition to a new job can be quicker and smoother—a benefit to the economic well-being of the community and the economic security of the family. This means that applicants should consider training to upgrade currently

employed individuals in skills in growth occupations, especially those with career ladders that may offer some of the best opportunities for the economic stability of both the community and the family. Offering training in the evenings and on Saturdays, to permit employed individuals to improve their skills and employability may be part of this strategy.

C. Activities Conducted as Part of Demonstration Program

1. Partnership Building Grants “ There are four elements (they may run concurrently in some circumstances) in this initiative described below. Although they may be occurring concurrently, the funding related to the elements are indicated by Phase I and Phase II .

a. Phase I: Coalition Building and Planning

The first phase or element of a project will be the development and solidification of the coalition of all the partners—including the grantee and other educational institutions, community businesses (and business organizations), community-based organizations, labor organizations—into a functioning entity.

Throughout the demonstration, it is expected that there will be cooperation with and active collaboration and consultation between the grantee and the regional workforce investment system(s). This means that if the region proposed under this solicitation covers more than one local workforce investment area, the cooperation and consultation expected under this solicitation must be demonstrated to have taken place with the appropriate representatives and organizations in each local area from early in the development of application, on a continuing basis during the planning period as policies and systems are developed, and, finally but not less importantly, as the project activities are implemented. If there are regional strategies such as those authorized under WIA Section 116(c) in place currently, DOL expects those relationships will be built upon for the purpose of this initiative.

Skill shortage assessment and planning is a dynamic process—reflecting the changing nature of business demands and labor market supplies. It is therefore anticipated that the partnerships established under this rubric would be open-ended and invite additional members—especially from private industry—as emerging needs are perceived or additional sectors of

industry are considered for further strategic planning.

A significant aspect of coalition building is the resources that partners can bring to the table and contribute to the partnership. DOL is not requiring a match for this competition. However, a major emphasis of this effort is to create entities and relationships which can sustain themselves once the partnership building grant has expired, and a key aspect of that sustainability will be the amount of resources—both cash and in kind—that can be generated by the participants in the partnership. Sustainability is an important consideration for the full implementation of the action plan, beyond the scope of this grant, that will be developed as part of this project and which is discussed immediately below.

When a substantial number of the workers (20 percent or more) in a targeted skill shortage occupation/industry is represented by one or more labor organizations, or where the training is for jobs where a labor organization represents a substantial number of workers engaged in similar work, the application must provide documentation of consultation on the project concept from applicable labor organizations. Further, in incumbent worker settings or those involving customized training where the union has been involved in bargaining relative to the introduction of either the technology or the addition of new skilled workers at the workplace, the application shall provide information as to any role the union played in the design and delivery of the training as well as any impact on the workers with respect to the growth or shrinkage in the number of jobs, and the selection of workers for retraining.

b. Phase I: Plan Development

This element of the project will involve activities to assess specific employer skill needs and to measure the gaps between the skills needed by industry and the skills held by dislocated, employed and incumbent workers in the region. The application must identify what is presently known regarding the skill shortage needs of the employers, the skill needs of the workforce and the training resources available to meet these needs. In many instances, this information will be preliminary and require additional investigation, research and data collection. The selection of the assessment tools necessary to add to the existing body of knowledge including data sources, survey instruments, interview protocols, etc., as well as measurement processes, is a key aspect

of the development of a strategy to address skill shortages. Although final selection of the specific assessment tools may not occur until the planning phase of the grant, inclusion of some discussion of the preliminary direction the consortium plans to consider would be useful in providing a sense of the level of understanding that presently exists among consortium members.

The plan will enumerate the data sources that are used to support the statement of skill shortages. Coalitions are encouraged to research widely and be inclusive in utilization of data. Resources for general skill shortage information include data generated by the Bureau of Labor Statistics (BLS) (such as the Current Population Survey (CPS) and the Occupational Employment Statistics (OES) survey), by regional and local trade associations, and by national and regional business associations (such as the U.S. Chamber of Commerce). However, the action plan will also be required to deal with current and short term needs of local employers identified, in part, by the initiatives developed as a result of this demonstration program such as community audits, evaluated in the context of the skills of workers currently seeking reemployment or employment. Regional and local hiring patterns as provided by local industry and trade associations are also extremely valuable information in terms of any sustained skills shortage. Information regarding minority skill levels and hiring practices in the targeted skill shortage occupations will also be helpful in assessing the need for the proposed project.

The plan for the implementation phase of the grant will include an analysis of the data information developed. The analysis will contribute substantially to the formulation of a training strategy that will be agreed to and signed off by all of the partners in the coalition and signed off on by the local board(s) if it is not an active member of the coalition. The certification by the local board in the latter instance will attest that this proposed specific training strategy is not inconsistent with and does not conflict with the activities of the workforce investment system and does not constitute the development of a parallel workforce investment system. Activities that may be part of the implementation plan include the identification, design and/or adaptation of appropriate training curricula to meet the needs of skill shortage occupational areas or to reflect the employment demands of key regional businesses or industries.

c. Phase II: Implementation—Operational Testing, Assessment of Results, and Program Adjustments

This phase of the project (which may, in fact, occur concurrently with the pursuit of strategies to begin to address other skill shortages) will be to test the implementation plan and the training strategy by training eligible individuals described in this SGA in the skills identified as a result of the first two elements of this demonstration program. Thus, although planning and capacity/partnership building are the primary objectives, grantees will be required to test any new curricula they develop and, in a limited trial fashion, to implement the action plan that they formulate. The test is required to see if the strategy developed can be operationalized, and if not, what changes need to be made. This test should be conducted to work out whatever imperfections there are in the action plan, so that upon completion of this grant period, the partnership is prepared to successfully implement the action plan on a fully operational basis. Most of the training to be conducted in this test period, will be relatively of an intensive or compressed nature. It is expected that during this period and upon completion of the pilot training effort, the consortium will determine the appropriateness of initiating the application process for the WIA State Eligible Training Provider List.

Please note that the training may be provided by more than one training provider based on level of complexity, geographic convenience or other reasons. The training may be developed as part of a career ladder system, with different training providers addressing different levels of the career ladder. However, regardless of the training approach used, the participants completing training are expected to be ready for jobs in the skill shortage areas identified and analyzed in the planning phase of the demonstration. Training may include paid and unpaid internships with employers.

(1) Operational Activities. Applicants must describe:

- How and through what entity(ies) trainees will be outreached and selected;
- What entity will have operational responsibility for the training and case management activities;
- The expected outcomes (jobs) for the trainees, including wage goals, and
- Training activities like those authorized under WIA Section 134(d)(4)(D) which will be conducted as part of the operational testing under this demonstration. Because the applicant

will likely not know what skill training will be provided as part of the demonstration, the description of the training activities to be funded as part of the operational test will at first need to be more conceptual in the initial application.

Grantees will receive more detailed information describing the information to be submitted in the Phase I plan in order for Phase II implementation funding to be released. In addition to other information, the grantee will be expected to submit a description of the training provider selection process; the development or modification of curricula; identification and recruitment of eligible individuals; and the types of assessments (including employer assessments) that will be used to identify candidates who would be likely to be able to succeed in the proposed skill training.

(2) Participant Services. Three categories of individuals who may be trained with any funds awarded as a result of this demonstration are eligible dislocated workers, employed and incumbent workers and new entrants.

The application will describe at what points during the operation of a demonstration the training is likely to occur. This is particularly important where applicants have already identified and gathered information on a skill shortage which they are prepared to begin addressing upon receipt of the grant. In other words, testing of a training concept or process is not limited to a period of time in any project that other "phases" or "segments" have been completed. In such cases, within a brief time after release of the Phase I planning funds, additional Phase II implementation funds will be released upon satisfying the Department's requirements to show that a consortium of appropriate community interests has been involved in the identification and planning regarding the skill shortage, adequate data exists to support the shortage, and the training plan addresses the additional information requirements.

Prior to the release of additional funds, the applicant must identify the entities responsible for the following:

- Determining eligibility;
- Selecting individuals for training or referral to employers participating in the demonstration for screening;
- Case management and other services (such as orientation to employer expectations, internships, supportive services, etc.) that will be available to maximize the trainees' success in completing the training;

- Developing and filling job openings identified as part of the employers' participation in this demonstration;

- Addressing contingencies for trainees who encounter difficulties and for whom alternative reemployment strategies must be developed outside the demonstration;

- Developing opportunities for work-based training which may or may not be in conjunction with classroom training (if not held on site or not a type of contextual training);

- Arranging for trainees to receive credit toward some kind of credential that provides evidence of accomplishment in the event a participant later changes jobs.

Other categories of individuals may be served through processes developed under projects implemented as a result of this solicitation, using resources other than demonstration grant funds to support training expenses.

d. Internal Monitoring and Evaluation/ Next Steps

(1) Project Benchmarks

A time line (Appendix to the application) must be provided of implementation and project performance benchmarks covering the period of performance of the project. The monthly schedule of planned implementation activities and start-up events (including benchmarks such as completion of lease arrangements for space, selection of an employer or community advisory group, advisory group meetings, hiring of staff, completion of data collection survey, design of customer satisfaction measures, development of a participant selection policy, initiation of customer satisfaction activities for employers and participants, etc.).

(2) Quantitative projections

A chart indicating quarterly projections of cumulative expenditures for Phase I funds should be included with the grant application. Prior to the release of Phase II funds, a number of products will be required in addition to the Implementation Plan. These include a second chart of quarterly projections of cumulative expenditures based on full funding of the demonstration project and a chart providing planned participant activity levels-enrollments, assignment to training, entered employment (or retained employment) and terminations.

It is expected that there will be ongoing reports (monthly progress reports during the early stages of the project, followed by quarterly reports as the projects as the pilot testing phase of

the training is underway) by the demonstration project director to the consortia signatories. Further, it is expected that there will be sufficient opportunity to review decisions made and strategies implemented if circumstances change or initial project design proves to be unproductive or insufficiently productive to proceed further. These reports and an active interest on the part of the key leadership in the Region and the entities involved will serve as a progress review and oversight function to ensure continuous improvement of the strategy and its implementation.

As indicated in the coalition building section and reemphasized here, part of this initiative also will be to explore the resources that the newly joined partners in the regional consortia can bring to the table. DOL is not imposing a matching requirement on this procurement. One of the key questions that has emerged with regard to this partnership initiative revolves around the issue of sustainability, i.e., how will these newly emerging partnerships keep themselves going once Federal funding abates? Clearly, one of the root factors in this area will be whether the partnership has managed to establish a viable financial base, as well as the leadership to ensure that the community can build a timely response to the needs of the employers and the workers, and continually improve the systems to meet this long-term commitment. At the end of the grant period, the grantee will be expected to prepare an assessment of the activities undertaken as part of the project, in particular providing an assessment of whatever operational testing was carried out under the authority of the project. That assessment will comprise a portion of the final report for the project. This requirement is in addition to the evaluation report that will be prepared by the independent evaluator.

2. Training Grants

a. Funds provided through this demonstration may be used only to provide services of the type described at Section 134(d)(2)(A)-(K), (3)(C), (4)(D), and (e)(2) and (3) of WIA. (Use DOL/ETA's web site www.doleta.gov to view.)

Grant funds may be used to reimburse employers for extraordinary costs associated with on-the-job training of program participants, in accordance with the provisions of 20 CFR 663 subpart G. In addition to the limitations and requirements provided in WIA, prospective applicants should be aware that grant funds may not be used for the following purposes: (a) for training that an employer is in a position to provide

and would have provided in the absence of the requested grant; (b) to pay salaries for program participants; and (c) for acquisition of employers' equipment. Applicants may budget limited amounts of grant funds to work with technical experts or consultants to provide advice and develop more complete project plans after a grant award, however, the level of detail in the project plan may affect the amount of funding provided.

b. Grant activities may include:

(1) Development, testing and initial application of curricula focused on intensive, short-term training to get participants into productive, high demand employment as quickly as possible;

(2) Working with employers in develop and apply worksite-based learning strategies that utilize cutting-edge technology and equipment;

(3) Development of employer-based training programs that will take advantage of opportunities created by employers' needs for workers;

(4) Development and initial application of contextual learning opportunities for participants to learn worksite theory and practices in a classroom setting while applying that learning in an on-the-job setting;

(5) Use of curriculum and skills training programs that are designed to impart learning to meet employer-specified or industry specific skill standards or certification requirements;

(6) Convening of an Employer Advisory Board to identify skills gaps of job applicants and present workers affecting the ability of the employer to offer a competitive product and develop a strategy for retraining;

(7) Innovative linkage and collaboration between employers and the local Substate Grantee and/or One-Stop/Career Center system to ensure a steady supply of high demand, skilled workers.

The above are illustrative examples and are not intended to be an exhaustive listing of possible demonstration project designs or approaches which may achieve the purpose of this solicitation. However, successful applicants must demonstrate the direct involvement by employers experiencing skill shortages in the design and operation of the project as well as provide substantive documentation about the existence of skill shortages for the industry or occupations to be targeted by the proposed project. Documentation should include a description of the employer involvement anticipated in the project. An employer advisory committee may be one means of accomplishing employer involvement.

c. Applications must address the following areas:

(1) Target Population

Describe the characteristics of the proposed target population for the project, e.g., educational level, previous occupation, age range, likely transferrable skills, length of unemployment, and language limitations. If that population to be served represents a particular minority group, describe the size and needs of the target population in the local area as they relate to the services available either through the grant or other resources in the geographic area covered by the grant. Provide documentation or other assurance showing there are sufficient numbers of WIA eligible individuals with the target population's characteristics in the project area(s) who can be expected to succeed in the planned training.

Indicate how the number of workers to be enrolled was determined. Documentation should be provided to show that individuals with appropriate characteristics to meet the purposes of this grant are available in sufficient numbers to meet the recruitment goals of the grant recognizing that not all workers with appropriate characteristics will chose to participate.

Available Jobs

Describe the jobs that will be available and targeted for placement to project participants upon completion of training and placement services including the strategy(ies) for identifying job openings that appear appropriate to the training planned and meet the target wage at placement goals established in the proposal. Include information about the number and type of jobs, wage information and the specific set of skills, knowledge or duties (industry-sponsored standards of certifications). Provide documentation (Footnote sources) that a shortage of qualified workers exists in the local area to fill positions in the targeted occupations in the absence of the proposed project. Anecdotal data should not be used. Information from the Bureau of Labor Statistics (BLS) available through a variety of web sites including BLS, O*NET and America's Labor Market Information System (ALMIS), should be considered as a key source of documentation. In addition, State Occupational Information Coordinating Committee (SOICC) and WIA local workforce investment plan may also be cited. Other sources from the private sector such as Chamber of Commerce or employer association studies as well as university studies are

also acceptable. The data must relate to local employment shortages.

Substantive linkages with specific employers who are experiencing skill shortages among their present workforce and/or the demand for additional employees with identified skill sets in documented occupational shortages must be provided. Letters from employers who have made a commitment to the demonstration project are the most appropriate form of documentation.

If some placements will be made with employers who have not been identified at the time of application, describe the job development and placement strategy to be used to assure placement of demonstration participants.

(3) Project Design

- Service Plan. Describe the services to be provided from the time of selection of participants through placement of those participants in jobs. Describe any services to be provided subsequent to job placement. The descriptions shall provide a clear understanding of the services and support that will be necessary for participants to be placed successfully in jobs and to retain those jobs, including services not funded under the grant, and ways to address participants' financial needs during periods of training. Grant-funded activities should, at a minimum, include recruitment, eligibility determination, assessment, retraining, job placement, and supportive services.

- Outreach and recruitment. Describe how eligible dislocated workers will be identified and recruited for participation in the project. Recruitment efforts may address public service communications and announcements, use of media, coordination with the One-Stop Career Center system, use of community-based organizations and other service groups. Describe the applicant's experience in reaching dislocated workers, especially the targeted population. It is highly recommended that applicants partner with the appropriate local One-Stop Career Center operators to plan and implement effective outreach and recruitment strategies.

- Eligibility determination. Describe the process to be used in determining the WIA eligibility of potential participants in the project. It is highly recommended that applicants partner with the local One-Stop Career Center operators or community-based organizations with eligibility determination experience to carry out this critical activity.

- Selection criteria. Describe the criteria and process to be used in

selecting those individuals to be served by the project from among the total number of eligible persons recruited for the project. Explain how the selection criteria relate to the specific purpose of the proposed project. Identify any assessment tools that will be used as part of selection process.

- **Training Services.** Describe the training to be provided—classroom, experiential, on-the-job, internships, etc. Include the length (days and hours) and schedule, any prerequisite courses, and customization to account for transferable skills, previous education (note: whether the training requires new and higher educational levels than previous skill training in the same industry), and particular circumstances of the target population and the skill needs of the hiring employer(s). Include information to demonstrate that any proposed training provider is qualified to deliver training that meets appropriate employment standards, and any applicable certification or licensing requirement. Past performance, qualifications of instructors, accreditation of curricula, and similar matters should be addressed if appropriate. Address the costs of proposed training and other services relative to the costs of similar training and services including courses provided by both public and private providers in the local area. If the training is to be customized to account for individual differences in skills levels of participants or employer hiring needs, describe how these considerations will be taken into account in the delivery of the training. The training provided must support the information provided regarding skill shortages and demand for jobs.

- **Job Placement.** Describe the role of the employer linkages previously addressed in assuring the availability of jobs for participants completing training. If an Employer Advisory Committee is the primary employer linkage, the members of the committee should be listed and the type of expertise they bring to the committee noted. Provide a discussion of the role(s) of the advisory committee and its projected meeting frequency. Describe any additional job seeking skills training or assistance provided to participants completing training.

- **Post placement services.** Describe any post placement services to be provided and explain their value to the achievement of the project's purpose and planned outcomes.

- **Supportive services.** Describe those supportive services determined to be appropriate to the target population's needs. Describe policies and procedures

to ensure that supportive services are provided only when they are necessary to enable an individual who is eligible for training but cannot afford to pay for such supportive services, to participate in the training program. Indicate how the participants' financial needs during the period of training will be addressed.

- **Relocation.** Describe the limitations and eligibility criteria for relocation assistance, if such assistance is included in the proposal.

- **Participant flow.** Provide a flowchart noting length of time for various activities (such as one day for assessment, etc.) to illustrate how the project will ensure access to necessary and appropriate reemployment and retraining services. Show the sequence of services and the criteria to be used to determine the appropriateness of specific services for particular participants. Note where service choice options will be available to participants. Indicate the average length of participation from eligibility determination and enrollment in the demonstration project to placement in an unsubsidized job.

- **Relationship to prior experience.** Discuss how the applicant's prior experience in working with the targeted population affects or influences the design of the proposed project. Note especially lessons learned or positive experiences that will be replicated.

(4) Collaboration

Describe the nature and extent of collaboration and working relationships between the applicant and other workforce development partners in the design and implementation of the proposed project. Include services to be provided through resources other than grant funds under this demonstration. Provide documentation that the collaboration described can reasonably be expected to occur (signed letters of agreement and/or the charter of a formally established advisory council are considered the strongest evidence, while letters of support are considered weaker evidence). Because a core purpose of this demonstration program involves the publicly funded workforce system, the applicant shall describe working relationships with local One-Stop Career Center partners where present.

Describe the number and types of employers to be directly involved in implementation of the demonstration through activities as participation on an advisory council, provision of input to curriculum development and design, training provider, internship supervision, participation in establishment of local skill standards,

etc. Describe activities, presently in place or to be undertaken to link activities to program interventions under this grant to employers, industry, or curriculum/learning centers currently designing and developing occupational/job skill standards and certifications.

Collaboration should focus on linking employers involved in grant activities with any employer, industry, or trade and worker association that has already developed or is developing skill standards certifications. Employer linkages must be specifically addressed in the application and documentation provided of the specific role(s) the employer(s) will play in implementation of the grant provided.

D. Outcome Goals

Outcome goals for this demonstration program include, but are not limited to those stated below:

1. Partnership Building Grants

- a. Increasing opportunities for minority colleges and universities to play a significant role in addressing skill shortages as a partner in the workforce investment system;

- b. Increasing job opportunities for minorities through skill training in growth occupations where employers have identified skill shortages in order to access quality jobs that provide for economic self-sufficiency and long-term employability security;

- c. Providing minority colleges and universities with access to timely, meaningful workforce data to be used in planning curriculum and future directions for their institutions;

- d. Providing minority colleges and universities with an additional means of accessing the employer community;

- e. Formation of region skills alliances that include minority colleges and universities to collaborate in implementing integrated strategies in response to employer needs;

- f. Identification of ways to best respond to reported skill shortages;

- g. Testing the viability of conducting on-going community audits to help avoid future skill shortages and to assist in community-or regional-wide planning for adjusting to economic change;

- h. Development of a broad based consortium which will continue after the conclusion of this demonstration; and

- i. Development of a process for collecting information and responding to employer needs which can be used by local workforce investment boards and chief elected officials as a basis for policy development for the local one stop system.

In addition, the Phase II—Operational Testing of the program should demonstrate connections between training provided to participants and the industries where participants are employed. Unless otherwise provided for in the grant, it is expected that 95% of the participants placed in jobs will find employment with those businesses or industries for which the training strategy is implemented. For dislocated workers, the wage replacement rate is expected to be 90% or better; for incumbent workers and new entrants, the wage rates will be consistent with requirements in the proposal, and any subsequent negotiations; and for employed workers, the wage rates will result in wages that meet the local workforce investment board's standard for achieving self-sufficiency, taking into consideration each application's description of these populations that will be trained as part of any funded project.

2. Training Grants

a. The number of participants projected: to be enrolled in services, to successfully complete services through the project, and to be placed into new jobs; a minimum of—percent entered employment rate is required;

b. Measurable effects of the services provided to project participants as indicated by gains in individuals' skills, competencies, or other outcomes;

c. Wages of participants prior to, at placement and 90 days after placement: (1) for dislocated worker participants: a minimum of—percent wage replacement rate is required for at least—percent of the participants and an average—percent wage replacement for the overall demonstration project is required; (2) for incumbent worker participants: a minimum of 100 percent wage retention is required for all participants successfully completing training and meeting the competencies/skills levels specified by the employer prior to the training.

d. For projects serving dislocated workers, as part of the targeted outcome for wage at placement, each project should benchmark at least two key wage averages for the labor market in which each project will operate. Suggested benchmarks might include: (1) The average weekly wage in the manufacturing sector, if the project is focused on manufacturing; the average weekly wage for technical and skilled trade jobs; or the average weekly wage for technical or professional workers; whichever is appropriate to the training program selected and (2) the average wage at placement for the local JTPA Title III, dislocated worker program

operated June 1999 to July 2000 by the local Substate Grantee prior to transfer to the operations under the Workforce Investment Act. Provide an explanation of the particular benchmarks chosen for the project. For incumbent workers, indicate the present wage level of the workers to be trained and discuss how this wage level compares with the appropriate benchmark wage for the local labor market area.

e. For each project serving dislocated workers, at least 80 percent of the individuals placed shall be placed at a wage that meets or exceeds (1) the average benchmarked wage in the labor market area, or (2) the average wage at placement for the last program year completed (currently 1999) for the JTPA Title III dislocated worker program operated in the targeted labor market, whichever is greater. The manufacturing wage and other wage information for any labor market may be obtained from the Covered Wages and Employment Program administered by each State's Employment Service.

f. Customer satisfaction with the project services including participant at critical points in the service delivery process as well as upon placement and employer satisfaction with the skills and preparation of the participants placed with their organization; and

g. Planned average cost per placement (amount of the grant request divided by the number of program-related placements, and the cost per placement for continued placements (the amount of the grant request minus development/start-up costs divided by the number of program-related placements).

E. Staffing

Each grantee will be expected to hire a full-time project director who will begin within 30 days of the grant award to ensure that an appropriate level of effort is committed to the success of the initiative. A tentative staffing plan should be provided listing each position of more than .10 FTE with a brief description of the position, salary, fringe, and the percentage of time to be devoted to the demonstration project. The individual with primary accountability for the implementation of the demonstration should be identified, with the information provided as to where this key individual will be placed in the organizational structure and to whom he/she will report.

Part IV. Monitoring, Independent Evaluation and Reporting Requirements

As part of the agreement for the receipt of funds under this solicitation, each Grantee will be required to provide

reports and documents as well as participate in evaluation and review activities described below. DOL will arrange for or provide technical assistance to grantees in establishing appropriate reporting and participant data collection methods and processes taking into account the applicant's project management plan. An effort will be made to accommodate and provide assistance to grantees to be able to complete all reporting electronically.

A. Monitoring

The Department shall be responsible for ensuring effective implementation of each competitive grant in accordance with the WIA, the Regulations at 20 CFR 652, the provisions of this announcement and the negotiated grant agreement. Applicants should assume at least one on-site project review will be conducted by DOL staff, or their designees.

This review will focus on the project's progress and performance in meeting the grant's programmatic goals and participant outcomes, complying with the targeting requirements regarding participants who are served, expenditure of grant funds on allowable activities, collaboration with employers and other organizations as required, and methods for assessment of the responsiveness and effectiveness of the services being provided. Grants may be subject to additional reviews at the discretion of the Department.

B. Independent Evaluation

DOL will contract for an independent evaluator of all phases of projects funded under this Solicitation. The purpose of the evaluation is to inform the system on all phases of the demonstration program in order that others who subsequently establish such partnerships to address skill shortages may learn from grantees' experiences. Each Grantee is required to participate in this effort.

C. Reporting

1. Progress Reports

a. Partnership Building Grants. The grantee must submit brief narrative progress reports. The reports will be submitted monthly during the Phase I of the project and during the first three months of Phase II funding and then quarterly thereafter. These reports are due 15 days following the end of each reporting period during which the project is operational (funded). The quarters end March 31, June 30, September 30 and December 31.

b. Training Grants. The grantee must submit brief narrative progress reports

as well as quantitative reports based on the planned levels of activity enrollment, training assignment, completion, job placement. The reports will be submitted monthly until 50 percent of the enrollment goal has been reached. Thereafter they may be submitted quarterly.

2. Quarterly Financial Status Report. Each grantee must submit to the Grant Officer's Technical Representative (GOTR) identified in each grant agreement within the 30 days following the end of each quarter, three copies of a quarterly Financial Status Report (SF 269) until such time as all funds have been expended or the period of availability has expired.

3. Final Project report. A draft final report which summarizes project activities and results of the demonstration shall be submitted no later than 30 days prior to the expiration date of the grant. The grantee's assessment of operational testing activities under the grant is to be included. The final report shall be submitted in 3 copies no later than 15 days before the grant expiration date. It is expected that this report includes information on challenges to the system and how those challenges were overcome as well as what worked best and what did not work as well, or did not work at all.

D. Other Documents or Reports To Be Submitted to DOL

1. Partnership Building Grant

a. It is expected that either with the application or within 90 days after the grant award, the grantee shall submit a copy of a signed consortium partnership agreement. The agreement shall include a written statement of operating principles and procedures defining roles and decision-making processes for each member of the partnership, as appropriate, as well as the overall principles and procedures of the partnership. It must include the frequency of meetings and how the review and oversight function will be conducted. A copy of the partnership agreement when modified thereafter to add additional partners should also be submitted.

b. The grantee must submit a copy of the Phase II—Implementation Plan upon completion of its development, and when modified thereafter. The Implementation Plan must be signed by the consortium partners.

Part V. Rating Criteria for Award and Selection Process

A careful evaluation of applications will be made by a technical review

panel who will evaluate the applications against the criteria listed in the SGA. The panel results are advisory in nature and not binding on the Grant Officer. The Government may elect to award grants with or without discussions with the offerors. In situations without discussions, an award will be based on the offeror's signature on the Standard Form (SF) 424, which constitutes a binding offer. The Government reserves the right to make awards under this section of the solicitation to ensure geographical balance. The Grant Officer will make final award decisions based upon what is most advantageous to the Federal Government in terms of technical quality, responsiveness to this Solicitation (including goals of the Department to be accomplished by this solicitation) and other factors.

Rating Criteria for Partnership Building Grants

A. Overall Statement of Problem and Objectives (5 Points)

A concise statement clearly setting forth the problem(s) to be addressed and the objectives for accomplishing the purposes of the grant.

B. Regional Characteristics (15 Points)

1. Region Description. The applicant must provide a clear statement describing the region or area that the partnership will encompass. The description must enumerate concisely the economic conditions of the region. Socioeconomic and demographic data should also be provided to buttress the discussion. Judicious use of relevant statistical information is encouraged. The statistical information must identify the characteristics that make this area a cohesive region.

2. Employer Characteristics. A discussion of the general business environment, including some emphasis on small and medium-sized businesses, the characteristics of the major employers in the region and in particular, identification of those employers—both major and small and medium-sized—that have experienced skill shortages. The application should include a discussion of the nature of the skills shortages as presently known and the extent to which additional areas of information needed to develop a response strategy and action plan and what is the nature of those shortages.

3. Identified Data Needs. The extent to which the applicant identified the additional information regarding the employer community necessary for the development of an implementation plan.

C. Strength of the Consortium (15 Points)

1. Partners and Roles. The applicant should enumerate who the partners are in this endeavor and how they will link together—i.e., what role each will play. This may be presented in chart form. The Department is interested in a broad representation of organizations and entities that are identified as able to contribute to this effort to address reported employer skills shortages in a timely and responsive manner. The application must clearly differentiate between actual and prospective partners.

2. Private Sector Involvement. This section should articulate ties to the private sector, including ties with small- and medium-sized businesses, minority businesses, and small business federations and businesses with skill shortages. Provide in detail the role of the private sector-employers, employer associations and training providers (where appropriate) in developing the application.

3. Resources provided by partners. A discussion of what resources, actual and leveraged, each partner will bring to the partnership. Although DOL has not imposed a matching requirement upon this procurement, applicants are strongly encouraged to enumerate in substantial detail exactly what assets the partners (including employers and employer associations) propose to contribute. Assets may include, but are not limited to, office or training space, equipment, curriculum development, office support staff, meeting space, communication lines, as well as cash contributions. Identify additional sources of support to be pursued if the grant is funded.

4. Role of training institutions. The development of a training strategy to equip individuals in the Region with the skills to address the skill shortages identified is important to the outcomes of the overall demonstration. This training may be accomplished through customized training contracts or through the Individual Training Account mechanisms established by the local workforce investment systems. In selecting a training approach, applicants will need to consider the replicability of the approach for other workforce investment systems as well as the sustainability of the approach under the WIA program design developed in the local area. The rationale on which consideration of the selection process will take occur or the approach most likely to be selected should be discussed. Note: There is no particular approach that is favored by DOL.

However, since the sustainability of the project will depend to some extent on the local or regional WIA program training designs, it will be important to recognize the philosophy of WIA training in developing the project's training rationale.

Role of unions should be discussed where appropriate.

5. Sustainability of the partnership and strategies. To be highly rated under this criterion, applicants must provide a detailed discussion of how the partnership is presently operating, or is envisioned to operate and how it will (could) sustain itself once the Federal grant funding has expired. Clearly, establishing a strong resource base is a significant factor in resolving that question.

D. Prospective Target Population (20 Points)

1. Characteristics of the target population. The description of the characteristics of those individuals the plan envisions serving should be clear and sufficiently detailed to determine the potential participants' service needs. If the individuals to be served will be drawn from one eligible group of participants (by industry, working status, etc.) the application should so state and provide the rationale for that group's selection. Describe the extent to which target populations will be drawn from groups under represented in the targeted industries/occupations.

2. Documentation of available participants. Documentation should be provided showing that a significant number of incumbent, employed, and dislocated workers as well as new entrants are available for participation within the project area.

E. Strategy and Service Plan (20 Points)

1. Collection and Data Analysis. The extent to which the applicant provides information about the approach to data collection and analysis, specifically citing rationale for methodology selected for data collection, responsibilities assigned regarding collection and analysis, and timeliness of data collection and analysis as it relates to development of an action plan and training strategy.

2. Strategy. The extent to which the proposed strategy approach addresses:

a. identification of the region or geographical area within the region to be served;

b. the relationship of the employers' skill shortages and employment needs, including an assessment of the current workforce's skills if the skill shortage is identified and confirmed as a result of the data collection and analysis at the

time of application, or a description of those areas of reported skill shortages which the proposal plans to examine and verify and the types of data collection and analysis presently under consideration; and

c. the employment and training needs of the targeted minority population to assure that the required demonstration outcomes are achieved.

3. Geographic, neighborhood or industry concentration. Applicants are strongly encouraged to include under represented communities and populations particularly those that may reside in Empowerment Zones and Enterprise Communities (EZ/ECs) in the region, or industries, and/or areas in the community or region that have been targeted for other assistance that together with funds from this initiative may result in sufficient concentration of resources to achieve even greater goals than those established for this demonstration. This approach also allows for great opportunity to leverage other funding sources.

4. Participant Services. While this Solicitation envisions only limited operational testing of the action plan, it is expected that some participants will be served during the period of this start up grant. Applicants must describe with clarity the participant focus of projected activities (from outreach/recruitment, assessment, case management, and supportive services to job search and placement activities) that will emanate from the Phase II: Implementation Plan. It is expected that the appropriate mix of services will be tailored to the characteristics of the target population.

F. Previous Experience and Management Plan (15 Points)

1. Previous individual staff experience and experience of partner organizations. Applicants should provide a detailed discussion of specific experience in the activities contemplated by the Solicitation. The kinds and quality of experience the regional skills alliance (including the applicant and other partners) has had in economic planning including the use of economic and demographic data to identify skill shortage occupations. The level and quality of experience the applicant and other partners have in curriculum planning and development. The quality of the experience the partners bring to the demonstration regarding occupational skill training.

2. Staffing. The application should include resumes of key staff who will be expected to play a key role in the first six months of the project implementation. As noted above, it may well be that the individual staff

members do not have substantive experience in partnership building activities. Therefore, it will be acceptable to demonstrate that the key staff has substantial background in economic planning and other activities (e.g., curriculum development) contemplated as part of the coalition building effort for this initiative.

3. Management Plan. The application should include a management plan for how this grant will be administered.

The structure under which the project will operate must be carefully described and must identify the lines of authority for accountability for the achievement of the project goals. The required time line will indicate the key benchmark achievements identified by the applicant and the timeframe for their accomplishment. It is recommended that the time line include such benchmarks as the selection and hiring of staff, finalization of an MOU with all demonstration project partners, selection of the methodology for gathering and analyzing necessary data to determine the occupational areas of skill shortages and employer needs, the identification of training needs and appropriate curricula, initial testing of training to meet employer skill shortage needs, formation of any subcommittees to focus on particular aspects of the demonstration activity, establishment of policies for the selection of participants and employers, approval of training strategy, assessment of customer satisfaction and assurance of continuous improvement efforts, and schedule for review of progress reports. This list is not meant to be inclusive, but rather to illustrate some activities to be accomplished that could serve as benchmarks for oversight review and for negotiation with DOL in determining the appropriate time for the release of the balance of demonstration grant funds.

G. Cost Effectiveness (10 Points)

Applicants will provide a detailed cost proposal including a detailed discussion of the expected cost effectiveness of their proposal. This discussion should be couched in terms of the reasonableness of the cost in relation to the activities planned, including such factors as the geographic area covered by the proposed project, the number and range of the partners, the operational testing of the Implementation Plan (in particular, training). The agreement shall include a written statement of operating principles and procedures defining roles and decision-making processes for each member of the partnership, as appropriate, as well as the overall

principles and procedures of the partnership. It must include the frequency of meetings and how the review and oversight function will be conducted. Expenses should be identified that will be incurred in terms of establishing and/or strengthening the collaborative, cooperative partnership. The cost benefits of assessing community needs and curriculum development should also be addressed. Benefits can be described both qualitatively in terms of the value of established cooperative relationships and skills attained and quantitatively in terms of wage gains and cost savings resulting from collaborative efforts and activities.

In view of the fact that there will be relatively little actual provision of services to individuals; proposals will have to discuss costs and benefits, to some extent, in terms of projected participants. This may, of necessity, involve a certain amount of hypothetical model building. However, it is anticipated that applicants would have a fully completed and tested action plan which is ready to be fully implemented upon completion of this grant, so that the model building could produce some excellent guide posts for the successful applicant to use in carrying out this grant.

Selection Criteria for Training Grants

A. Statement of Need (15 Points)

1. **Region Description.** The applicant must provide a clear statement describing the region or area that the partnership will encompass. The description must enumerate concisely the economic conditions of the region including those industries in growth and decline. Socioeconomic and demographic data should also be provided to buttress the discussion. Judicious use of relevant statistical information is encouraged. The statistical information must identify the characteristics that make this area a cohesive region.

2. **Employer Characteristics.** A discussion of the general business environment, including some emphasis on small and medium-sized businesses, the characteristics of the major employers in the region and in particular, identification of those employers—both major and small and medium-sized—that have experienced skill shortages.

3. **Identification of the skill shortages.** A discussion of information and data sources used in selecting the particular skill shortages selected for training must be provided. The application should include a discussion of the nature of the

skills shortages as presently known and the extent to which additional areas of information needed to develop a response strategy and action plan and what is the nature of those shortages.

B. Target Population (10 Points)

1. **Description of the characteristics.** The applicant must provide a clear statement describing the target group to be served that is sufficiently detailed to determine the potential participants' service needs.

2. **Availability of Sufficient Number of Workers.** Documentation must be provided showing that a significant number of eligible dislocated workers who possess these characteristics are available for participation within the project area. An explanation of how the number of dislocated workers to be enrolled in the project was determined should be provided.

3. **The recruitment plan must support the number of planned enrollments.** The target population must be appropriate for the specific purpose of the proposed project.

C. Targeted Jobs (15 Points)

1. **Appropriateness of Selected Occupations.** The applicant should provide information indicating that the jobs identified for training are clearly available to workers who successfully complete the planned training and preparation given that:

a. the match between the documented skill shortage and the training planned;

b. the documentation provided specifying that training meets or is developed based on industry driven skill standards or certifications;

c. the substantial level of involvement of employers in making known their needs regarding requisite worker skills necessary for hiring program completers;

d. the documentation and reliability of job availability is based upon recognized, reliable and timely sources of information;

e. where appropriate, the role of workers or representatives of a labor organization representing the workers in the design and/or delivery of training in enhancing worker skills during workplace change;

2. **Consultation with labor unions** has occurred where appropriate and a statement is included noting the consultation or determination that such consultation was not necessary.

D. Service Delivery Strategy. (20 Points)

1. **Strategy.** Applicants must lay out a comprehensive strategy of providing the skills training. It must include how many types of training will be provided,

by what organizations (in addition to the grantee), and demonstrate that the scope of services to be provided is consistent with the demonstration program and project purposes.

2. **Scope of Services.** The scope of services must be adequate to meet the needs of the target population given:

a. their characteristics and circumstances;

b. the complexity of the training and the skills to be developed relative to their characteristics and previous job experience, including discussion on how internships, hands-on training, or other practicum opportunities will be part of the curricula;

c. the jobs in which they are to be placed relative to targeted wage at placement goals;

d. the length of program participation planned prior to placement.

3. **Services to be Provided.** The applicant should discuss the services to be provided including at a minimum: outreach and recruitment, assessment, selection process, training, job search assistance and job placement, supportive services and follow-up services. The provision of any training or employment related tools and uniforms should be noted.

4. **Innovation.** Innovation in the context of service delivery can represent a wide variety of items. There can be innovation in the way training services are provided—e.g., distance learning to provide instruction to rural areas, interactive self-instructional video materials, flexible class scheduling (to accommodate employed and incumbent workers schedules), professional mentoring. Creativity in developing other aspects of service strategy (recruitment, assessment, transportation linkages, etc.) is also encouraged.

E. Cost Effectiveness (10 Points)

1. **Reasonableness of Costs.** Applicants should address the employment outcomes and the levels of skills to be achieved (such as attained State licensing, an industry-recognized certification, etc.) relative to the amount of training that the individual would need to receive in order to achieve those outcomes. The cost information provided regarding similar training available through other training providers is within an acceptable range or sufficient rationale is provided for the cost differences. The impact of development/start-up and innovation on costs is explained clearly in the proposal and is reasonable. Benefits can be described both qualitatively in terms of skills attained and quantitatively in terms of wage gains. Proposed costs must be reasonable in relation to the

characteristics and circumstances of the target group, the services to be provided, planned outcomes, the management plan, and coordination/collaboration with other entities, including One-Stop/Career Center organizations.

2. Leveraged resources. Identification should be provided of the specific sources and amounts of other funds which will be used, in addition to funds provided through this grant, to implement the project. The application must include information on any non-WIA resources committed to this project, including employer funds, grants, and other forms of assistance, public and private. The degree to which other interested partners in the workforce development system invest resources to test the concepts put forth in the application. In-kind contributions should also be discussed. Value and level of external resources being contributed, including employer contributions, to achieve program goals will be taken into consideration in the rating process.

3. Cost effectiveness may also be demonstrated in part by cost per participant and cost per activity in relation to services provided and outcomes to be attained taking into consideration the characteristics of the planned participants.

F. Management (10 Points)

1. Project progress tracking system. The project management plan must be designed to track project performance in such a way as to assure that benchmarks are achieved in a timely manner, issues affecting performance such as employer involvement, collaboration partners commitments, etc. are quickly identified and addressed, and planned outcomes will be achieved in a cost effective manner.

2. Integrity of WIA funds. The management structure and management plan for the proposed project must ensure the integrity of the funds requested. The project work plan demonstrates the applicant's ability to effectively track project progress with

respect to planned expenditures. Sufficient procedures are in place to use the information obtained by the project operator(s) to take corrective action if indicated.

3. Customer Satisfaction. The proposal must have a method of assessing customer feedback for both participants and employers involved, and establish a mechanism to take into account the results of such feedback as part of a continuous system of management and operation of the project.

G. Collaboration (15 Points)

1. Evidence of involvement of key workforce investment stakeholders. The application must include evidence of partnership with the local Workforce Investment Board(s) and the local One-Stop/Career Center operator(s) in the planning and other appropriate demonstration activities. Evidence of coordination with other programs and entities for project design or provision of services should also be provided. A written agreement or memorandum of understanding is a suggested vehicle for presenting a clear indication that the signatory stakeholders have agreed to cooperate and coordinate resources and operating responsibilities, as applicable, for the life of the proposed project.

2. Employer Involvement. The applicant should discuss and provide documentation of the role of the employer(s) in the overall design of the project, the occupations targeted for training and the identification of the skills for which training is provided, and in the placement of training completers. The project includes a reasonable method of assessing and reporting on the impact of such coordination, relative to the demonstration purpose and goals and the specific purpose and goals of the proposed project.

H. Sustainability and Replicability (5 Points)

1. Sustainability. The applicant must provide evidence that, if successful,

activities supported by the demonstration grant will be continued after the expiration date of the grant, using WIA-allotted formula funds or other public or private resources.

2. Replicability. The likelihood that the approach may be applicable to a broad range of dislocated worker programs across the country. The proposal must provide evidence that the approach and training strategy(ies) used can be replicated by other workforce development partners to address skill shortages in their local area.

This solicitation is designed to promote involvement and provide support of minority colleges and universities in establishing a role in their local workforce investment areas' strategies to address skill shortages as well as in their provision of training services in response to employer-identified skill shortages. For this reason, the Federal Government intends to award grants to institutions representing each of the three primary categories of minority colleges and universities—Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities.

Applicants are advised that discussions may be necessary in order to clarify any inconsistency or ambiguity in their applications. The final decision on awards will be based on what is most advantageous to the Federal Government as determined by the ETA Grant Officer. The Government may elect to award grant(s) without discussion with the applicant(s). The applicant's signature on the Application for Federal Assistance (Standard Form) SF-424 constitutes a binding offer.

Signed this date, July 26, 2000 at Washington, D.C.

Laura A. Cesario,
Grant Officer.

Appendix "A"—Standard Form (SF) 424
Appendix "B"—Budget Information Sheet
Appendix "C"—Definitions

BILLING CODE 4510-30-P

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|--------------|--|--------------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable) | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided.

- "New" means a new assistance award.
- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project. | | |

APPENDIX B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. **Personnel:** Show salaries to be paid for project personnel which you are required to provide with W2 forms.
2. **Fringe Benefits:** Indicate the rate and amount of fringe benefits.
3. **Travel:** Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.
4. **Equipment:** Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of \$5,000 or more. Also include a detailed description of equipment to be purchased including price information.
5. **Supplies:** Include the cost of consumable supplies and materials to be used during the project period.
6. **Contractual:** Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.
7. **Other:** Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.
8. **Total, Direct Costs:** Add lines 1 through 7.
9. **Indirect Costs:** Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.
10. **Training /Stipend Cost:** (If allowable)
11. **Total Federal funds Requested:** Show total of lines 8 through 10.

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE: PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

BILLING CODE 4510-30-C

Appendix "C"

Definitions That Will Apply to This Demonstration Program

1. **Community Audit.** A mechanism used by a community or region that collects "real-time data" from regional employers regarding actual and projected short term and longer term labor surpluses and needs, to enable the regional workforce development system (the entire community) to plan effectively for expected events— both positive and negative—in order to improve the

functioning of the market and minimize the overall negative impact on the community.

2. **Consortium.** A group of entities (agencies or organizations) representing key policy makers within a Region (as identified in the application, consistent with the definition herein) which has a common interest in developing strategies and processes to respond to skill shortages within the Region. At a minimum, the consortium must include the local workforce development board chairs, or their representatives (speaking on behalf of the board), and chief elected officials, or their representatives, within the Region who will

use the outcomes developed as part of this demonstration to develop or direct policy decisions for the workforce investment system.

3. **Contextual Learning.** A combination of compressed work and class-based learning strategies that may include integrated basic skills, literacy, and vocational training.

4. **Chief Elected Officials.** Those elected officials whose responsibilities are defined in JTPA and the Workforce Investment Act.

5. **Customized Training.** Training and or curricula that is developed for specific employers' specific hiring needs in a collaborative fashion by the employer, the

education system, the local workforce investment system. It may be entirely work-based, entirely classroom or a combination of the two. The cost of the training must be leveraged from a variety of sources, including the employer, the education system and this demonstration program.

6. *Displaced Homemaker.* An individual who meets the definition at WIA Section 101(10).

6. *Eligible Dislocated Worker.* An individual who meets the definition at WIA Section 101(9)(A), (B), and (D). See also "employed dislocated worker."

7. *Employed Dislocated Worker.* An individual who meets the definition of an eligible dislocated worker at WIA Sec. 101(9) and who has not yet been laid off or has been dislocated and has accepted a temporary, income-maintenance job at a wage of less than 90% of layoff wage; and is determined by the project operator or the designated one-stop operator to require training to obtain or retain employment that permits the individual to achieve self-sufficiency in accordance with the criteria set by the State or local workforce investment board under WIA.

8. *H1-B Visa Skill Shortages.* Those skill shortages identified by the Immigration and Naturalization Service (I&NS) for which employers are permitted to apply to bring into the U.S. foreign workers to meet demands when the supply of workers with such skills in the local labor market are insufficient. A list of the occupations certified by the Department of Labor under the H1-B program for non-immigrant visas may be found on page 44549 of the **Federal Register**, Volume 64, Number 157, Monday, August 16, 1999.

9. *Incumbent Worker.* An individual who is currently employed at small or medium-sized businesses (see definition) whose job skills do not meet the current or future needs of the company if it is to remain competitive by keeping workers employed, averting layoffs, and upgrading workers' skills. As a result, the company has identified such workers as being at risk of being laid off in the future (5 year projection). This definition is for purposes of this grant solicitation.

10. *Independent Evaluation.* A process and outcome evaluation conducted by a contractor hired by DOL. The evaluation will be designed to identify the lessons learned and the variety of effective models developed in order to maximize the value of systems tested and inform the workforce investment system.

11. *Local Workforce Investment Areas.* Those geographic areas designated by the Governor of each State under the Workforce Investment Act (WIA) of 1998 (or service delivery areas under JTPA).

12. *Local Workforce Investment Boards.* Boards are authorized under Section 117 of the Workforce Investment Act (WIA) of 1998. More than half of the membership of each local board must be key officials from the private employers.

13. *Memorandum of Understanding or Cooperative Agreement.* A living and growing agreement that is a critical element of the establishment and on-going development of a regional skills alliance

process. The initial agreement to be submitted with an application, at a minimum, articulate the outcomes and action plan to occur if a project is funded. It must include the affected local workforce development board chairs and the chief elected officials in the Region for which application is made must be parties to the agreement. This agreement shall include the role each organization will take in implementing the demonstration strategy as well as any monetary and in-kind contribution by each signatory organization.

14. *New Entrants.* Eligible individuals in this category include young adults aged 18 years and over; welfare recipients; disabled individuals and others who have limited work histories but for whom the type of training envisioned under this demonstration will lead to self-sufficiency as defined by the State or local workforce investment board.

15. *Private Industry Council (PIC).* The policy making local entity as described in JTPA Sections 102 and 103.

16. *Performance Outcomes.* A determination of how many participants enter jobs for which the training was conducted and the wage received as a result of the training, both in terms of prior wage for incumbent workers and dislocated workers, and in relationship to self-sufficiency for new entrants to the workforce. Other performance factors will be negotiated for each grant depending upon the design of the demonstration project and shall include factors for planning and implementation of strategies to respond to area employers' skill shortages and consistent with the goals articulated in this SGA.

17. *Region.* An area which exhibits a commonality of economic interest. Thus, a region may comprise several labor market areas, one large labor market, one labor market area joined together with several of adjacent rural districts, special purpose districts, or a few contiguous PICs or local boards. If the region involves multiple economic or political jurisdictions, it is essential that they be contiguous to one another. A region may be either intrastate or interstate. Although the rating criteria will provide more detail, it is the applicant's responsibility to demonstrate the regional nature of the area which that application covers. Also, a region may be coterminous with a single PIC or local board.

18. *Regional Planning.* A process described in WIA Section 116(c).

19. *Self-Sufficiency for:*

Dislocated workers. The wage of the job for which the individual is trained will pay at least 95% of the worker's layoff wage within one year of entering employment as a result of the training received.

New entrants. The wage of the job for which the individual is trained will at a minimum exceed the lower living standard for the family size as published by the DOL.

20. *Skills Shortage.* Those specific vocational skills that employers have identified as lacking in sufficient numbers to meet their needs. A labor shortage occurs when the demand for workers possessing a particular skill is greater than the supply of workers who are qualified, available and willing to perform those skills. Problematic

skills shortages occur when there is an imbalance between worker supply and demands for a significant amount of time for which the labor market does not, or is unable, adjust in a timely manner.

21. *Small and Medium-sized Business.* A business with 500 or fewer full-time employees.

22. *Unified Plan.* A State plan authorized under WIA Section 501(b), containing coordination principles strongly encouraged by the Department.

[FR Doc. 00-19297 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-3854]

Chevron Products Company, Roosevelt, UT Notice of Negative Determination Regarding Application for Reconsideration

By application transmitted May 25, 2000, the petitioners request administrative reconsideration of the Department's denial of TA-W-37,240, TA-W-36,295I, and North American Free Trade Agreement-Transitional Adjustment Assistant (NAFTA-TAA). The NAFTA-TAA petition number was not provided.

At an earlier date, the same petitioners filed application for reconsideration of the Department's denial of Trade Adjustment Assistance (TAA) for workers of Chevron Products Company, Roosevelt, Utah, TA-W-37,240, and were notified that their was dismissed. The dismissal notice, dated March 29, 2000, was published in the **Federal Register** on April 11, 2000 (65 FR 19387). With respect to TA-W-36,295I, the petition is a certification issued on July 6, 1999, applicable to workers of Chevron Production, Chevron USA, Inc., all locations in Utah. Since the petitioners in this case are not employees of that company, there is no basis to reexamine the findings of that investigation.

The only petition that the Department may consider under the May 25, 2000 appeal, is the denial of NAFTA-TAA for workers and former workers of Chevron Products Company, Roosevelt, Utah (NAFTA-3854), signed on April 24, 2000, and published in the **Federal Register** on May 11, 2000 (65 FR 30444).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioners explain that the low price of imported crude oil forced U.S. producers to reduce activity which contributed to a loss of demand by oil producers for gaugers, and thus, worker separations at the subject firm. The petitioners also cite an increase in Canadian crude imports, including imports by Chevron, to replace lost production in the local area.

The petition investigation conducted on behalf of workers at Chevron Products Company in Roosevelt, Utah, revealed that there were no company imports of crude oil.

The petitioners state that other trucking and non-producing entities have been certified for TAA. That is not relevant to worker groups applying for NAFTA-TAA eligibility.

The Department's denial of NAFTA-TAA for workers engaged in lifting and transporting crude oil at Chevron Products Company, Roosevelt, Utah, NAFTA-3854, was based on the finding that the worker group provided a service and did not produce an article within the meaning of Section 250(a) of the Trade Act of 1974, as amended. As explained in the decision document for NAFTA-3854, eligibility requirement criteria under which service workers could be certified under the Trade Act were not met for the petitioning worker group. There were no NAFTA-TAA certifications in effect for workers of Chevron Products Company. Other findings of the investigation, not elaborated on in the decision document, show that the subject firm workers lifted and transported crude oil that was primarily purchased from unaffiliated firms.

The petitioners add that the Department's negative determination was premature because Utah had not issued their preliminary findings of the investigation. The Department had all of the information necessary (from the investigation conducted in response to the TAA petition for the same worker group), with which to determine if the group eligibility criteria under paragraph (a)(1) of Section 250 of the Trade Act of 1974 were met.

The petitioners state that the individual issuing denials of worker group eligibility should not be reviewing appeals. The response is that there is no provision in the Federal Regulations for any other means of

administrative reconsideration. The appeal process described in 29 CFR § 90.18, affords the worker group the opportunity to present to the certifying officer (the

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 21st day of July 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19404 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-04016]

ITT Industries, Fluid Handling Systems, Oscoda, Michigan; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on June 30, 2000 in response to a petition filed on behalf of workers at ITT Industries, Fluid Handling Systems, Oscoda, Michigan.

In a letter dated July 16, 2000, the petitioner requested that the petition for NAFTA-TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 20th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19406 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-03963]

Sagaz Industries, Inc., Miami, Florida; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on June 20, 2000, applicable to workers of Sagaz Industries, Inc., Miami, Florida. The notice was published in the **Federal Register** on June 29, 2000 (65 FR 40136).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of car seat covers. New information provided by the company shows that workers separated from employment at Sagaz Industries, Inc. had their wages reported under a separate unemployment insurance (UI) tax account, ADP Total Services, Miami, Florida.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Sagaz Industries, Inc. adversely affected by imports from Mexico.

The amended notice applicable to NAFTA-03963 is hereby issued as follows:

All workers of the Sagaz Industries, Inc., Miami, Florida, including those receiving their compensation through ADP Total Services, Miami, Florida, who became totally or partially separated from employment on or after March 31, 1999 through June 20, 2002 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00-19411 Filed 7-31-00; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00-083]

Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before August 31, 2000.

ADDRESSES: All comments should be addressed to Mr. Harry Lupuloff, Office of the General Counsel, Code GP, National Aeronautics and Space Administration, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, Office of the Chief Information Officer, (202) 358-1223.

Reports: None.

Title: Patent License Report.

OMB Number: 2700-0010.

Type of review: Extension.

Need and Uses: Each licensee is required to report annually on its activities in commercializing its licensed inventions and any royalties due. NASA uses information collected to monitor the activities of its licensees.

Affected Public: Individuals or households, business or other for-profit.
Number of Respondents: 60.
Responses Per Respondent: 1.
Annual Responses: 60.
Hours Per Request: 30 min.
Annual Burden Hours: 30.
Frequency of Report: Annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00-19328 Filed 7-31-00; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AGENCY

[Notice 00-084]

Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before August 31, 2000.

ADDRESSES: All comments should be addressed to Mr. Harry Lupuloff, Office of the General Counsel, Code GP, National Aeronautics and Space Administration, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, Office of the Chief Information Officer, (202) 358-1223.

Reports: None.

Title: Application for a Patent License.

OMB Number: 2700-0039.

Type of review: Extension.

Need and Uses: The information supplied is used by the NASA Associate General Counsel to make agency determinations that NASA should either grant or deny a request for a patent license, and whether the license should be exclusive, partially exclusive, or nonexclusive.

Affected Public: Individuals or households, business or other for-profit.

Number of Respondents: 80.

Responses Per Respondent: 1.

Annual Responses: 80.

Hours Per Request: 8.

Annual Burden Hours: 640.

Frequency of Report: Annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00-19329 Filed 7-31-00; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00-085]

Agency Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before August 31, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, Office of the Chief Information Officer, (202) 358-1223.

Reports: none.

Title: Patents.

OMB Number: 2700-0048.

Type of Review: Extension.

Need and Uses: The information is needed to ensure the proper disposition of rights to inventions made in the course of NASA funded research.

Affected Public: Businesses or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 9,347.

Responses Per Respondent: 1.

Estimated Annual Responses: 9,347.

Estimated Hours Per Request: 30 min to 8 hrs.

Estimated Annual Burden Hours: 17,276.

Frequency of Report: Annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00-19330 Filed 7-31-00; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00-086]

Agency Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before August 31, 2000.

ADDRESSES: All comments should be addressed to Ms. Lois Ryno, Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt Road, Greenbelt, MD 20771-0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358-1223.

Reports

Title: Locator and Information Services Tracking System (LISTS).

OMB Number: 2700-0064.

Type of Review: Extension.

Need and Uses: The LIST System is used primarily to support services on the Center dependent upon accurate locator-type information.

Affected Public: Individuals or households.

Estimated Number of Respondents: 8,456.

Responses Per Respondent: 1.
Estimated Annual Responses: 8,456.
Estimated Hours Per Request: .083.
Estimated Annual Burden Hours: 702.
Frequency of Report: As required.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00-19331 Filed 7-31-00; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00-087]

Agency Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before August 31, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358-1223.

Title: Small Business and Small Disadvantaged Business Concerns.
OMB Number: 2700-0078.

Type of review: Extension.

Need and Uses: Reports are required to monitor Mentor-Protege performance and progress according to the Mentor-Protege Agreement. Reports are internal control to determine if Agency objectives are met.

Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Number of Respondents: 48.

Responses Per Respondent: 2.

Annual Responses: 96.

Hours Per Request: 1.

Annual Burden Hours: 96.

Frequency of Report: Semi-annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00-19333 Filed 7-31-00; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00-088]

Agency Information Collection: Submission for OMB Review; Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before August 31, 2000.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358-1223.

Title: Uncompensated Overtime.

OMB Number: 2700-0080.

Type of review: Extension.

Need and Uses: For contracts over \$500,000, uncompensated overtime information is used to determine (i) whether a contractor will be able to hire and retain qualified individuals, (ii) whether uncompensated overtime hours will be properly accounted, and (iii) the validity of the proposed uncompensated hours.

Affected Public: Business or other for-profit.

Number of Respondents: 650.

Responses Per Respondent: 1.

Annual Responses: 650.

Hours Per Request: 3.25.

Annual Burden Hours: 2113.

Frequency of Report: Annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 00-19334 Filed 7-31-00; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA)

publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before September 15, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740-6001. Requests also may be transmitted by FAX to 301-713-6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT:

Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: (301) 713-7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these

schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Air Force, Agency-wide (N1-AFU-99-10, 5 items, 5 temporary items). Electronic copies of documents created using electronic mail and word processing that are associated with unfavorable information files of enlisted personnel and officers. This schedule also revises the disposition instructions for recordkeeping copies of these files, which were previously approved for disposal.

2. Department of the Air Force, Agency-wide (N1-AFU-00-2, 6 items, 6 temporary items). Records relating to

Air Force radio and television service. Included are workload reports, product quality assessments, information concerning broadcast scheduling, broadcast material inventories, and documents relating to the disposition and shipment of library materials. Also included are electronic copies of documents created using electronic mail and word processing.

3. Department of the Air Force, Agency-wide (N1-AFU-00-10, 2 items, 2 temporary items). Electronic copies of documents created using electronic mail and word processing that are associated with student operations training records containing personal data and course information. This schedule also increases the retention period for recordkeeping copies of these files, which were previously approved for disposal.

4. Department of the Army, Agency-wide (N1-AU-00-12, 2 items, 2 temporary items). Master files and outputs of the Army Career and Alumni Program System, an electronic information system pertaining to services and benefits for military and civilian personnel transitioning from the Army. The system includes demographic data concerning program participants and information concerning the nature and scope of the assistance needed for them to successfully transition.

5. Department of the Army, Agency-wide (N1-AU-00-17, 2 items, 2 temporary items). Files relating to programs to provide active duty special work for reserve component personnel. Included are budget and resource management files, requests, approvals, and disapprovals. Also included are electronic copies of documents created using electronic mail and word processing.

6. Department of the Army, Agency-wide (N1-AU-00-19, 2 items, 2 temporary items). Individual academic records of military personnel. Files include information relating to such matters as courses attended, extent of completion, results, aptitudes and personal qualities, and grade or rating attained. Also included are electronic copies of documents created using electronic mail and word processing. Records predating 1981 were previously approved for disposal.

7. Department of the Army, Agency-wide (N1-AU-00-24, 2 items, 2 temporary items). Master files and outputs of the Dental Readiness System, an electronic information system concerning the dental readiness status of all active duty personnel. The system includes name and unit of service

members and date of last annual dental examination.

8. Department of the Army, U.S. Forces Korea (N1-AU-00-25, 2 items, 2 temporary items). Master files and outputs of the Biometrics Identification System, an electronic information system used to control access to U.S. facilities in Korea. The system includes personal identifying data concerning U.S. military and civilian personnel, level of access, and vehicle and weapons registration information.

9. Department of Commerce, National Oceanographic and Atmospheric Administration (N1-370-00-1, 2 items, 2 temporary items). Records relating to the management of weather stations and field offices of the National Weather Service. Records document daily management, emergency procedures, and administrative policies. Included are such records as annual inspection reports, local office instructions, manuals, and electronic copies of documents created using electronic mail and word processing.

10. Department of Defense, Defense Information Systems Agency (N1-371-99-1, 3 items, 2 temporary items). Older records accumulated during the 1960s and 1970s consisting of area office correspondence and automatic secure voice communications system project management files. Records relate to such matters as circuitry problems and improvements, power outages, switch relocations, monthly maintenance, and technical support. Headquarters program correspondence, 1960-1964, is proposed for permanent retention.

11. Department of Defense, Defense Intelligence Agency (N1-373-00-2, 4 items, 4 temporary items). Records relating to identifying and addressing Y2K issues. Included are overall plans, risk assessments, budget records, and files relating to the testing and modification of specific systems. Also included are electronic copies of records created using electronic mail and word processing.

12. Department of Defense, National Imagery and Mapping Agency (N1-537-00-3, 90 items, 88 temporary items). Paper and electronic records relating to budget, finance, and accounting, including electronic copies of documents created using electronic mail and word processing. Records relate to such matters as budget preparation, financial transactions, civilian personnel pay and accounting, property and fund accounting, non-appropriated fund accounting, and cost accounting. Recordkeeping copies of annual budget estimate submissions and Congressional budget justifications are proposed for permanent retention.

13. Department of Energy, Rocky Flats Environmental Technology Site (N1-434-98-26, 2 items, 2 temporary items). Incoming and outgoing controlled correspondence, which consists of documents identifying commitments to actions, dates, or resources for the on-site Management and Operations contractor. Also included are attachments, enclosures, written dissents, and electronic copies of documents created using electronic mail and word processing. Copies of records that have historical value are maintained in subject files, which were previously approved for permanent retention.

14. Department of Energy, Year 2000 Project Office (N1-434-00-2, 10 items, 10 temporary items). Records relating to efforts to ensure that agency computer systems are Y2K compliant. Included are records relating to such matters as policy and planning, system testing and verification, and project administration. Also included are electronic copies of documents created using electronic mail and word processing. This schedule also authorizes the agency to apply the proposed disposition instructions to records regardless of medium.

15. Department of Energy, Assistant Secretary for Fossil Energy (N1-434-00-4, 4 items, 4 temporary items). Paper and microfilm copies of Natural Gas Import/Export Case Files. Included are such records as applications, **Federal Register** notices, correspondence, protests, interventions, and final opinions. Also included are electronic copies of documents created using electronic mail and word processing.

16. Department of Health and Human Services, Centers for Disease Control and Prevention (N1-442-00-2, 3 items, 3 temporary items). Paper and electronic records relating to Y2K efforts, including reports, lists, correspondence, memorandums, spreadsheets, compact disks, and electronic copies of records created using electronic mail and word processing. Records relate to such subjects as system reviews, meetings, logistical matters, and contractor activities.

17. Department of Health and Human Services, Agency for Health and Human Services (N1-510-00-1, 3 items, 3 temporary items). User access logs and access log analysis reports for the Quality Interagency Coordination Task Force's web site. Records pertain to visits to the site and include such information as visitor's origin, length of stay, and activities while at the site. Also included are electronic copies of documents created using electronic mail and word processing.

18. Department of Housing and Urban Development, Office of Congressional Relations (N1-207-00-2, 16 items, 13 temporary items). Records accumulated by the Office of the Assistant Secretary for Congressional and Intergovernmental Relations. Included are such records as travel plans, speaking invitations, correspondence with Members of Congress, staff working files, notifications provided to Members of Congress concerning agency-assisted projects, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of substantive correspondence, calendars, and Congressional testimony are proposed for permanent retention.

19. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (N1-207-00-3, 2 items, 1 temporary item). Electronic copies of records created using electronic mail and word processing associated with case files relating to agency-regulated security contracts at public housing sites. Recordkeeping copies of case files are proposed for permanent retention.

20. Department of the Interior, Bureau of Land Management (N1-49-00-3, 30 items, 27 temporary items). Records relating to the Federal helium program including electronic copies of records created using electronic mail and word processing. Records relate to such matters as the processing and clearance of proposed and final rules, the design, inspection, and maintenance of pipelines, the preparation of reports on helium resources, helium sales, and helium wells. Also included are databases used for billings and for identifying sources of helium in natural gas. Recordkeeping copies of published reports, records of easements and rights-of-way, and files containing documentation concerning major policies and procedures are proposed for permanent retention.

21. Department of Justice, Drug Enforcement Administration (N1-170-00-2, 3 items, 3 temporary items). Records relating to the cleanup of hazardous waste sites and the disposal of hazardous waste in permanent landfills and incinerators. Files include correspondence, instructions to contractors, manifests, invoices, packing lists, delivery orders, teletypes, reports and supporting documentation, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of files maintained by the office with agency-wide responsibility for the program will be retained for 75 years.

22. Department of Justice, U.S. Parole Commission (N1-438-00-1, 2 items, 1 temporary item). Input documents for the Decision Reporting and Monitoring System (DRAM), an electronic database relating to parole hearings. Records consist of such documents as copies of prisoner parole applications, summaries of prisoner interviews, and notices of action. Master files for DRAM are proposed for permanent retention.

23. Department of Justice, United States Marshals Service (N1-527-00-3, 10 items, 9 temporary items). Paper and electronic records relating to felony investigations, misdemeanor cases, and traffic cases, including electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of significant case files are proposed for permanent retention.

24. Department of Labor, National Occupational Information Coordinating Committee (N1-174-00-3, 41 items, 27 temporary items). Records relating to career development programs, including general correspondence, information memorandums, administrative meeting agendas, allotments, monthly planning calendars, grant files, and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of administrative memorandums, interagency agreements and memorandums of understanding, speeches, publications, long range planning documents, sound and video recordings, and Career Development Training Institute Board minutes, agendas, and reports.

25. Department of State, Bureau of Personnel (N1-59-00-1, 20 items, 19 temporary items). Records accumulated by the Director General and Board of the Foreign Service. Included are such records as Director General messages and correspondence, Board of the Foreign Service administrative and subject files, and files relating to employee-management relations. Also included are electronic copies of records created using word processing and electronic mail. Recordkeeping copies of minutes, transcripts, and other records relating to meetings of the Board of the Foreign Service are proposed for permanent retention. This schedule proposes minor changes in series descriptions and disposition instructions for recordkeeping copies of these files, which were previously scheduled.

26. Department of State, Bureau of Personnel (N1-59-00-13, 84 items, 71 temporary items). Records relating to the administration of career development programs for Foreign

Service Officers. Included are such records as subject files relating to career counseling and assignments, files on applicants for limited duration assignments into Foreign Service positions, and other files accumulated in connection with the administration of career development and training programs. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files relating to Presidential appointments, appointments to the Foreign Service, and the Great Seal of the United States. Most of the series covered by this schedule were previously scheduled; minor changes in disposition instructions are proposed for these records.

27. Department of State, Bureau of Information Resource Management (N1-59-00-19, 7 items, 7 temporary items). Records, including electronic copies created using electronic mail and word processing, that relate to identifying and addressing Y2K issues. Records relate to such matters as overall policies and plans, budgeting and resource allocation, and the testing and modification of specific systems.

28. Department of the Treasury, United States Secret Service (N1-87-00-1, 2 items, 2 temporary items). Records relating to Century Date Conversion (Y2K) efforts. Files pertain to such matters as the development of plans and strategies, the review and testing of computer systems and applications, and program reviews. Included are plans, copies of contracts, policy letters, correspondence, and electronic copies of documents created using electronic mail and word processing.

29. Department of the Treasury, United States Secret Service (N1-87-00-2, 6 items, 6 temporary items). Records accumulated by the Headquarters Office of the Counterfeit Division. Records include digests of counterfeit information, counterfeit U.S. Treasury checks, additional specimen notes, and raised and pieced notes. Also included are electronic copies of records created using electronic mail and word processing.

30. Department of the Treasury, United States Secret Service (N1-87-00-3, 8 items, 8 temporary items). Records accumulated by Field Offices of the Counterfeit Division. Records include logs of items provided to agents for use in investigations, contraband property and related records, counterfeit U.S. Treasury checks, additional specimen notes, and raised and pieced notes. Also included are electronic

copies of records created using electronic mail and word processing.

31. Administrative Office of the U.S. Courts, Federal Appellate and District Courts (N1-116-00-1, 7 items, 4 temporary items). Electronic copies of documents created using electronic mail and word processing that relate to disciplinary actions against attorneys, appellate judicial assignments and designations, attorney disbarment proceedings, attorney admissions, and the actions and minutes of circuit judicial councils. Recordkeeping copies of disciplinary action files and judicial assignment records are proposed for disposal. Recordkeeping copies of files relating to attorney admissions, disbarments, and the activities of judicial councils are proposed for permanent retention.

32. Environmental Protection Agency, Agency-wide (N1-412-00-1, 3 items, 3 temporary items). Software programs, electronic data, and documentation associated with the Envirofacts data warehouse. The Envirofacts system provides access to agency databases to allow cross media analyses of program information. The source data available in Envirofacts was previously approved for permanent retention.

33. Farm Credit Administration, Agency-wide (N1-103-00-1, 3 items, 3 temporary items). Loan performance reports and financial and statistical reports for which data has been entered into the Consolidated Reporting System. This schedule reduces the retention period for these reports, which are no longer created by the agency and were previously approved for disposal. The Consolidated Reporting System was previously approved for permanent retention.

34. Federal Retirement Thrift Investment Board, Agency-wide (N1-474-00-3, 1 item, 1 temporary item). Sound recordings of telephone conversations of Thrift Savings Plan customer service representatives with plan participants, Federal agency personnel and payroll offices, and other individuals or institutions.

35. Interagency Commission on Crime and Security in U.S. Seaports, Agency-wide (N1-220-00-5, 23 items, 15 temporary items). Unidentified photographs, web-based forms, documents placed on the Commission's web site, duplicate copies of documents, and electronic copies of documents created using electronic mail, word processing, and other applications. Records proposed for permanent retention include recordkeeping copies of Commissioners' minutes and correspondence, public meeting records, files accumulated by work groups,

subject files, reports, still photographs, and reference materials relating to seaport crime and security.

36. National Aeronautics and Space Administration, Agency-wide (N1-255-00-4, 3 items, 3 temporary items). Research and technology plans and objectives files, which relate to the funding levels of ongoing and proposed space science research projects. Included are forms with project descriptions and funding profiles and electronic copies of documents created using electronic mail and word processing.

37. National Aeronautics and Space Administration, Agency-wide (N1-255-00-5, 2 items, 2 temporary items). Records of third party audits documenting the certification of computer and electronic equipment manufactured for the agency. Included are quality control reviews of printed wiring boards inspected for workmanship and defects and electronic copies of documents created using electronic mail and word processing.

38. Office of Personnel Management, Agency-wide (N1-478-00-1, 3 items, 2 temporary items). Electronic mail and word processing records associated with legal advisory files. This schedule also modifies the transfer instructions for recordkeeping copies of these files, which were previously approved for permanent retention.

Dated: July 24, 2000.

Michael J. Kurtz,

*Assistant Archivist for Record Services—
Washington, DC.*

[FR Doc. 00-19345 Filed 7-31-00; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional Nixon presidential historical materials. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (PRMPA, 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR Part 1275), the agency has identified, inventoried, and prepared for public access approximately 420 hours of Nixon White House tape recordings among the Nixon Presidential historical materials.

DATES: The National Archives and Records Administration (NARA) intends to make the materials described in this notice available to the public beginning October 26, 2000. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense on or before August 31, 2000.

ADDRESSES: The materials will be made available to the public at the National Archives at College Park research room, located at 8601 Adelphi Road, College Park, Maryland, beginning at 8:45 a.m. on October 26, 2000.

Petitions asserting a legal or constitutional right or privilege which would prevent or limit access must be sent to the Archivist of the United States, National Archives at College Park, 8601 Adelphi Road, College Park, Maryland 20740-6001.

FOR FURTHER INFORMATION CONTACT: Karl Weissenbach, Director, Nixon Presidential Materials Staff, 301-713-6950.

SUPPLEMENTARY INFORMATION: NARA is proposing to open approximately 4,139 conversations which were recorded at the Nixon White House from August 1971 to December 1971. These tape segments total approximately 420 hours of listening time.

This is the eighth opening of Nixon White House tapes since 1980. Previous releases included conversations constituting "abuses of governmental power" and conversations recorded in the Cabinet Room of the Nixon White House. The tapes now being proposed for opening consist of the second of five segments comprising the remaining hours of conversations, processed for release in chronological order starting with February 1971.

There are no transcripts for these tapes. Tape logs, prepared by NARA, are offered for public access as a finding aid to the tape segments and a guide for the listener. There is a separate tape log entry for each segment of conversation released. Each tape log entry includes the names of participants; date, time, and location of the conversation; and an outline of the content of the conversation.

The tape recordings will be made available to the general public in the research room at 8601 Adelphi Road, College Park, Maryland, Monday through Friday between 8:45 a.m. and 4:30 p.m. Researchers must have a NARA researcher card, which they may obtain when they arrive at the facility. Listening stations will be available for

public use on a first come, first served basis. NARA reserves the right to limit listening time in response to heavy demand. No copies of the tape recordings will be sold or otherwise provided at this time. No sound recording devices will be allowed in the listening area. Researchers may take notes. Copies of the tape log will be available for a fee in accordance with 36 CFR 1258.12.

Dated: July 25, 2000.

John W. Carlin,

Archivist of the United States.

[FR Doc. 00-19346 Filed 7-31-00; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following new information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. It was initially published as a proposed collection on April 28, 2000. No comments relating to the information collection were received within the 60 day comment period.

DATES: Comments will be accepted until August 31, 2000.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518-6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-518-6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the: NCUA Clearance Officer, James L. Baylen, (703) 518-6411. It is also available on the following website: www.NCUA.gov.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: New.

Form Number: N/A.

Type of Review: New.

Title: Office of Community Development Credit Unions Annual Survey Report.

Respondents: Certain low-income designated credit unions.

Estimated No. of Respondents/Recordkeepers: 300.

Estimated Burden Hours Per

Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Annual Burden

Hours: 150 hours.

Estimated Total Annual Cost: N/A

By the National Credit Union Administration Board on July 25, 2000.

Becky Baker,

Secretary of the Board.

[FR Doc. 00-19294 Filed 7-31-00; 8:45 am]

BILLING CODE 7535-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-400]

Carolina Power & Light Company; (Shearon Harris Nuclear Power Plant, Unit 1); Exemption

I. Carolina Power & Light Company (CP&L or the licensee) is the holder of Facility Operating License No. NPF-63, which authorizes operation of the Shearon Harris Nuclear Power Plant, Unit 1 (HNP). The facility consists of one pressurized-water reactor located at the licensee's site in Wake and Chatham Counties, North Carolina. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

II. Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix G requires that pressure-temperature (P-T) limits be established for reactor pressure vessels (RPVs) during normal operation, and hydrostatic pressure or leak testing conditions. Specifically, 10 CFR Part 50, Appendix G states that "[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions."

Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G Limits. Both 10 CFR Part 50, Appendix G and the ASME Code require that the effects of neutron

irradiation on the material properties of the RPV be considered. Regulatory Guide (RG) 1.99, Revision 2, "Radiation Embrittlement of Reactor Vessel Materials," dated May 1988, provides an acceptable method to account for these effects.

To address provisions of amendments to the technical specifications (TS) P-T limits and low temperature overpressure protection (LTOP) system setpoints, the licensee requested in its submittal dated April 12, 2000, as amended by letter dated June 2, 2000, that the staff exempt HNP from application of specific requirements of 10 CFR Part 50, Section 50.60(a) and Appendix G, and substitute use of ASME Code Case N-640. Code Case N-640 permits the use of an alternate reference fracture toughness (K_{IC} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P-T limits and LTOP setpoints. Since the K_{IC} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A-2200-1 (the K_{IC} fracture toughness curve) provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G-2210-1 (the K_{Ia} fracture toughness curve), using Code Case N-640 for establishing the P-T limits and LTOP setpoints would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G and, therefore, an exemption to apply the Code Case would be required by 10 CFR 50.60. It should be noted that although Code Case N-640 was incorporated into the ASME Code recently, an exemption is still needed because the proposed P-T limits and LTOP setpoints (excluding Code Case N-640) are based on the 1989 edition of the ASME Code.

The proposed amendment will revise both the P-T limits of TS 3/4.4.9.2 related to the heatup and cooldown of the reactor coolant system (RCS), and the LTOP setpoints of TS 3/4.4.9.4, for operation to 36 effective full-power years (EFPYs).

The licensee has proposed an exemption to allow use of ASME Code Case N-640 in conjunction with ASME Section XI, 10 CFR 50.60(a) and 10 CFR Part 50, Appendix G, to determine P-T limits and LTOP setpoints.

The proposed amendment to revise the P-T limits and LTOP setpoints for HNP relies in part on the requested exemption. These revised P-T limits and LTOP setpoints have been developed using the K_{IC} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower

bound for fracture toughness of the RPV materials.

Use of the K_{IC} curve in determining the lower bound fracture toughness in the development of P-T operating limit curves and LTOP setpoints is more technically correct than use of the K_{Ia} curve since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{IC} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the conservatism of the K_{Ia} curve since 1974, when the curve was adopted by the ASME Code. This conservatism was initially necessary due to the limited knowledge of the fracture toughness of RPV materials at that time. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve greatly exceeds the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P-T curves and LTOP setpoints based on the K_{IC} curve will enhance overall plant safety by opening the P-T operating window, with the greatest safety benefit in the region of low temperature operations.

Since an unnecessarily reduced P-T operating window can reduce operator flexibility without just basis, implementation of the proposed P-T curves and LTOP setpoints as allowed by ASME Code Case N-640 may result in enhanced safety during critical plant operational periods, specifically heatup and cooldown conditions. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of 10 CFR 50.60 and Appendix G to 10 CFR Part 50 will continue to be served.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by application of ASME Code Case N-640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the NRC regulations to ensure an acceptable margin of safety.

III. Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the

requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The staff accepts the licensee's determination that exemption would be required to approve the use of Code Case N-640. The staff examined the licensee's rationale to support the exemption requests and concurred that the use of the Code case would meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR Part 50, Appendix G; Appendix G of the Code; and Regulatory Guide 1.99, Revision 2, the staff concludes that application of the Code case as described would provide an adequate margin of safety against brittle failure of the RPV. This conclusion is also consistent with the determinations that the staff has reached for other licensees under similar conditions based on the same considerations. Therefore, the staff concludes that requesting an exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that the methodology of Code Case N-640 may be used to revise the P-T limits and LTOP setpoints for HNP.

IV. Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Carolina Power & Light Company an exemption from the requirements of 10 CFR Part 50, Section 50.60(a) and 10 CFR Part 50, Appendix G, for HNP.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the exemption will not result in any significant effect on the quality of the environment (65 FR 45628).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26 day of July 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00-19391 Filed 7-31-00; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Power Authority of the State of New York Indian Point Nuclear Generating Unit No. 3; Issuance of Director's Decision Under 10 CFR 2.206

By letter dated February 10, 2000, Mr. David A. Lochbaum, on behalf of the Union of Concerned Scientists (Petitioner), pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206), requested that the U.S. Nuclear Regulatory Commission (Commission or NRC) take action with regard to the Indian Point Nuclear Generating Unit No. 3 (IP3), owned and operated by the Power Authority of the State of New York (PASNY). The Petitioner requested that the NRC order PASNY to assess the corrective action process and the work environment at IP3 and to take timely actions to remedy any deficiencies it may identify.

The Director of the Office of Nuclear Reactor Regulation has addressed the technical concerns provided by the Petitioner. However, the Petitioner's request for the staff to take enforcement action was not granted for the reasons that are explained in the "Director's Decision Pursuant to 10 CFR 2.206" (DD-00-03). The complete text of the Director's Decision is available for public inspection at the Commission's Public Document Room located in the Gelman Building, 2120 L Street, NW., Washington, DC., and will be accessible electronically from the agencywide documents access and management system (ADAMS) public library component on the NRC Web site, <http://www.nrc.gov> (the electronic reading room).

A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided for by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 26th day of July 2000.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00-19392 Filed 7-31-00; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**Sunshine Act Meeting**

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of July 31, August 7, 14, 21, 28, and September 4, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 31

There are no meetings scheduled for the Week of July 31.

Week of August 7—Tentative

There are no meetings scheduled for the Week of August 7.

Week of August 14—Tentative

Tuesday, August 15
9:25 a.m. Affirmation Session (Public Meeting) (If necessary)
9:30 a.m. Briefing on NRC International Activities (Public Meeting) (Contact: Ron Hauber, 301-415-2344)

This meeting will be webcast live at the Web address—www.nrc.gov/live.html

Week of August 21—Tentative

Monday, August 21
1:55 p.m. Affirmation Section (Public Meeting) (If necessary)

Week of August 28—Tentative

There are no meetings scheduled for the Week of August 28.

Week of September 4—Tentative

There are no meetings scheduled for the Week of September 4.

*THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415-1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415-1661.

* * * * *

ADDITIONAL INFORMATION: By a vote of 5-0 on July 25, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of (a) Final Rule to Amend 10 CFR Part 70, Domestic Licensing of Special Nuclear Material and (b) Final Rule: 10 CFR Part 72—Clarification and Addition of Flexibility" be held on July 25, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please sent an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: July 28, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00-19540 Filed 7-28-00; 2:16 pm]

BILLING CODE 7590-01-M

SOCIAL SECURITY ADMINISTRATION**Privacy Act of 1974, as Amended; Revisions to Existing Systems of Records**

AGENCY: Social Security Administration (SSA).

ACTION: Revision to existing systems of records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4)), we are issuing public notice of a revision to SSA's special procedure for providing individuals notification of, or access to, their medical records in SSA's possession when direct access to the records may have an adverse affect on the individual to whom the record pertains. The revised procedure is applicable to 28 of SSA's systems of records. The revised procedure is the result of a Seventh Circuit decision invalidating SSA's regulation on access to medical records. See 20 CFR 401.55. Thus, we are changing the "Notification Procedure" and "Record Access Procedures" sections in each system of records notice to conform to the Seventh Circuit's decision.

We invite public comment on this proposal.

DATES: The proposed revisions will become effective August 1, 2000.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, 3-F-1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401. All comments received will be

available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela McLaughlin, Social Insurance Program Specialist, Social Security Administration, Room 3-C-2 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, telephone (410) 965-3677.

SUPPLEMENTARY INFORMATION:

I. Discussion of Revision

On June 13, 2000, in *Bavido v. Apfel*, No. 98-4046, 2000 U.S. App. LEXIS 13547, the Seventh Circuit held that the special procedure in the Social Security Administration's (SSA's) regulations for providing individuals access to their medical records through a designated representative is invalid. See 20 CFR 401.55(b)(ii). Prior to the Seventh Circuit's decision, the special procedure required individuals requesting notification of, or access to, their medical records to designate a responsible representative to receive the record. The special procedures allowed the designated representative to use his or her discretion to withhold all or a portion of an individual's medical record. The Seventh Circuit held that the procedure was inconsistent with the Privacy Act (5 U.S.C. 552a) because it requires an individual to designate a representative who ultimately has complete discretion to disclose or to withhold the requested information. Although the court invalidated this portion of the regulation, it recognized that an agency may have a special procedure for access to sensitive medical records, such as psychological records, but the procedure must assure the ultimate disclosure of the records to the requesting individual.

As a result of the court's decision, SSA is revising the Agency's special procedure regarding providing individuals access to their medical records. The revised special procedure will still require individuals requesting access to medical records to designate a responsible representative to receive the medical records if the Agency determines that direct access may adversely affect the individual. However, the responsible representative chosen by the subject of the medical record(s) must ultimately provide all of the records to him or her. The representative cannot use discretion to withhold any portion of the records. The revised special procedure found in the "Notification Procedure" and "Record Access Procedures" sections of each Privacy Act system notice listed below will read as follows:

An individual who requests access to his or her medical records shall be given direct access to those records unless SSA determines that it is likely that direct access would adversely affect the individual. If SSA determines that direct access to the medical record(s) would likely adversely affect the individual, he or she must designate a responsible representative who is capable of explaining the contents of the medical record(s) to him and who would be willing to provide the entire record(s) to the individual.

We are not republishing in their entirety the notices of systems of records to which we are revising the special procedures for access to medical records because of the large number of those systems of records and the costs of republishing individual notices of each one. Instead, we are republishing only the identification number, and the name of each system, and the volume, page number, and date of the **Federal Register** issue in which the systems notice was last published. The revision will be included in the following SSA systems notices:

- (1) Working File of the Appeals Council, 60-0004 (59 FR 46439, dated 09/08/94),
- (2) Storage of Hearing Records: Tape Cassettes, 60-0006 (59 FR 46439, dated 09/08/94),
- (3) Hearing and Appeals Case Control System, 60-0009 (59 FR 46439, dated 09/08/94),
- (4) Quality Review System, 60-0040 (59 FR 46439, dated 09/08/94),
- (5) Quality Review Case Files, 60-0042 (59 FR 46439, dated 09/08/94),
- (6) Disability Determination Service Processing File, 60-0044 (59 FR 46439, dated 09/08/94),
- (7) Completed Determination Record-Continuing Disability Determinations, 60-0050 (59 FR 46439, dated 09/08/94),
- (8) Quality Evaluation Data Records, 60-0057 (59 FR 46439, dated 09/08/94),
- (9) Public Inquiry Correspondence File, 60-0078 (59 FR 52308, dated 10/17/94),
- (10) Claims Folders System, 60-0089 (65 FR 13808, dated 03/14/00),
- (11) Master Beneficiary Record, 60-0090 (60 FR 52948, dated 10/11/95),
- (12) Supplemental Security Income Record and Special Veterans Benefits, 60-0103 (65 FR 32142, dated 05/22/00),
- (13) Matches of Internal Revenue Service and Social Security Administration Data with Census Survey Data (Joint SSA/CENSUS Statistics Development Project), 60-0148 (47 FR 45589, dated 10/13/82),
- (14) Matches of Internal Revenue Service (IRS) and Social Security Administration (SSA) Data (Joint SSA/

Treasury Department, Office of Tax Analysis, Statistics Development Project), 60-0149 (47 FR 45589, dated 10/13/82),

(15) Continuous Work History Sample (Statistics), 60-0159 (47 FR 45589, dated 10/13/82),

(16) Disability Studies, Surveys, Records and Extracts (Statistics), 60-0196 (47 FR 45589, dated 10/13/82),

(17) Extramural Surveys (Statistics), 60-0199 (47 FR 45589, dated 10/13/82),

(18) Retirement and Survivors Studies, Surveys, Records and Extracts (Statistics), 60-0200 (47 FR 45589, dated 10/13/82),

(19) Old Age, Survivors and Disability Beneficiary and Worker Records and Extracts (Statistics), 60-0202 (47 FR 45589, dated 10/13/82),

(20) Supplemental Security Income Studies, Surveys, Records and Extracts (Statistics), 60-0203 (47 FR 45589, dated 10/13/82),

(21) Beneficiary, Family and Household Surveys, Records and Extracts System (Statistics), 60-0211 (47 FR 45589, dated 10/13/82),

(22) Quality Review of Hearing/Appellate Process, 60-0213 (59 FR 46439, dated 09/08/94),

(23) Disability Insurance and Supplemental Security Income Demonstration Projects and Experiments System, 60-0218 (59 FR 46439, dated 09/08/94),

(24) Vocational Rehabilitation Reimbursement Case Processing System, 60-0221 (59 FR 46439, dated 09/08/94),

(25) Plans for Achieving Self-Support (PASS), Management Information System, 60-0255 (formerly 05-009) (61 FR 46675, dated 09/04/96),

(26) Vocational Rehabilitation; State Vocational Rehabilitation Agency Information (VR SVRA) File, 60-0253 (formerly 05-007) (63 FR 7034, dated 02/11/98),

(27) Vocational Rehabilitation; SSA Disability Beneficiaries/Recipients Eligible for Re-referral to an Alternate Vocational Rehabilitation Service Provider (VR Re-referral), 60-0254 (formerly 05-008) (63 FR 7034, dated 02/11/98), and

(28) Social Security Title VIII Special Veterans Benefits Claims Development and Management Information System, 60-0273 (65 FR 13803, dated 03/14/00)

We will amend SSA's disclosure regulation (20 CFR part 401) to include the revised special procedure. Pending amendment of the regulations, we are announcing the revised special procedure via this publication.

II. Effect of Revisions on Individual Rights

The proposed changes will:

(1) Revise SSA's special procedures for access to medical records in accordance with *Bavido v. Apfel*;

(2) Clarify that an individual is not required to designate a representative in writing unless the Agency first determines that direct access to those records would adversely affect him; and

(3) Indicate that a designated representative does not have discretion to withhold the records from the individual.

Dated: July 26, 2000.

Darrell Blevins,

SSA Privacy Officer.

[FR Doc. 00-19336 Filed 7-31-00; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF STATE

Bureau of European Affairs, Office of European Security and Political Affairs (EUR/RPM)

[Public Notice 3376]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Department of State.

ACTION: 60-Day Notice of proposed information collection; election observer questionnaire.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Data Collection from Election Observers

Originating Office: Bureau of European Affairs, Office of European Security and Political Affairs (EUR/RPM)

Title of Information Collection: Election Observer Questionnaire.

Frequency: Occasionally, linked to elections in certain OSCE Participating States.

Form Number: None.

Respondents: U.S. citizens selected and funded by the U.S. Department of State to serve as election observers as part of OSCE Election Observation Missions.

Estimated Number of Respondents: 100 per year.

Average Hours Per Response: 10 minutes per response.

Total Estimated Burden: 1000 minutes = 16 hrs 40 minutes.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT:

Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to the OSCE Coordinator, Bureau of European Affairs, Room 6227, U.S. Department of State, Washington, DC 20520 (telephone number 202-736-7290).

Dated: July 19, 2000.

Walter E. Andrusyszyn,

Acting Deputy Assistant Secretary, Bureau of European Affairs, Department of State.

[FR Doc. 00-19364 Filed 7-31-00; 8:45 am]

BILLING CODE 4710-23-P

DEPARTMENT OF STATE

[Public Notice: 3371]

United States-Egypt Science and Technology Joint Board; Science and Technology Program for Competitive Grants To Support International, Collaborative Projects in Science and Technology Between U.S. and Egyptian Cooperators

August 1, 2000.

AGENCY: U.S. Department of State.

ACTION: Notice.

EFFECTIVE DATE: August 1, 2000.

FOR FURTHER INFORMATION, CONTACT:

Vickie Alexander, Program Administrator, U.S.-Egypt Science and Technology Grants Program, U.S. Embassy, Cairo/ECPO, Unit 64900, Box 6, APO AE 09839-4900; phone: 011-(20-2) 797-2925; fax: 011-(20-2) 797-3150; E-mail: alexanderva@state.gov.

SUPPLEMENTARY INFORMATION:

Authority: This program is established under 22 U.S.C. 2656d and the Agreement for Scientific and Technological Cooperation between the Government of the United States of America and the Government of the Arab Republic of Egypt.

A solicitation for this program will begin August 1, 2000. This program will provide modest grants for successfully competitive proposals for binational collaborative projects and other activities submitted by U.S. and Egyptian experts. Projects must help the United States and Egypt utilize science and apply technology by providing opportunities to exchange ideas, information, skills, and techniques, and to collaborate on scientific and technological endeavors of mutual interest and benefit. Proposals which fully meet the submission requirements as outlined in the Program Announcement will receive peer reviews. Proposals considered for funding in Fiscal Year 2001 must be postmarked by November 1, 2000. All proposals will be considered; however, special consideration will be given to proposals that address priority areas defined/approved by the Joint Board. These include priorities in the areas of information technology, environmental technologies, biotechnology, standards and metrology, and manufacturing technologies. More information on these priorities and copies of the Program Announcement/Application may be obtained by request.

William R. Gaines,

Director, Office of Science and Technology Cooperation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, and Chair, U.S.-Egypt S&T Joint Board.

[FR Doc. 00-18784 Filed 7-31-00; 8:45 am]

BILLING CODE 4710-09-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-176]

WTO Dispute Settlement Proceeding Regarding United States of America—Section 211 of the Department of Commerce Appropriations Act, 1999

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice of a request for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO"), requested by the European Communities and their Member States (the "EC"). The EC has asked that a panel examine whether section 211 of the "Omnibus Appropriations Act of 1998" [sic] is consistent with U.S. obligations under

the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPs Agreement"). The statutory provision to which the EC refers is section 211 of the Department of Commerce Appropriations Act, 1999, as included in Pub. L. 105-277 ("Section 211"). Section 211 concerns the registration or enforcement, by Cuban entities or their successors in interest, of trademarks, trade-names, or commercial names that are substantially similar to trademarks, trade-names, or commercial names associated with businesses confiscated without compensation by the Cuban government, without the consent of the previous owners of the trademarks, trade-names or commercial names.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted by September 1, 2000, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: Section 211, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C., 20508.

FOR FURTHER INFORMATION CONTACT: L. Daniel Mullaney, Associate General Counsel, at (202) 395-3581.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that, on June 30, 2000, the EC submitted a request for the establishment of a WTO dispute settlement panel to examine the consistency of Section 211 with the WTO TRIPs Agreement. Under normal circumstances, the panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report detailing its findings and recommendations within six to nine months after it is established.

Major Issues Raised and Legal Basis of the Complaint

In its request for the establishment of a panel, the EC alleges that three substantive provisions of section 211 are inconsistent with the TRIPs Agreement:

1. The EC alleges that Section 211(a)(1) limits the right to register or renew trademarks, trade-names or commercial names at the United States Patent and Trademark Office, in violation of TRIPs Article 2.1, in conjunction with Article 6 quinquies A(1) of the Paris Convention for the

Protection of Industrial Property (1967) ("Paris Convention"), and TRIPs Article 15.1. The EC alleges that Section 211(a)(1) does this by, in the case of trademarks, trade-names and commercial names that are substantially similar to trademarks, trade-names, or commercial names associated with businesses confiscated without compensation by the Cuban government, requiring the consent of the original owner or his successor-in-interest of the trademark, trade-name, or commercial name.

2. The EC alleges that Section 211(a)(2)—by providing that U.S. courts shall not recognize, enforce, or otherwise validate common law or registration rights asserted by designated nationals or their successors in interest in trademarks, trade-names and commercial names that are substantially similar to trademarks, trade-names and commercial names associated with businesses confiscated without compensation by the Cuban government—violates TRIPs Art. 2.1, in conjunction with Articles 6 bis (1) and 8 of the Paris Convention, and TRIPs Article 16.1 (which require WTO Members to provide protection for well-known trademarks and for trade-names). The EC also alleges that Section 211(a)(2) violates the TRIPs enforcement provisions, such as TRIPs Article 42, and the most favored nation and national treatment provisions of the TRIPs Agreement (TRIPs Articles 3.1, 2.1 (in conjunction with Article 2(1) of the Paris Convention), and 4).

3. Finally, the EC alleges that Section 211(b)—by providing that U.S. courts shall not recognize, enforce, or otherwise validate treaty rights asserted by designated nationals or their successors in interest in trademarks, trade-names and commercial names that are substantially similar to trademarks, trade-names, or commercial names associated with businesses confiscated without compensation by the Cuban government (unless the original owner consents)—violates TRIPs Art. 2.1, in conjunction with Articles 6 bis (1) and 8 of the Paris Convention (requiring protection of well-known trademarks and trade-names) and TRIPs Articles 3.1, 4, 16.1, and 42 (provisions concerning most favored nation treatment, national treatment, trademark rights conferred, and fair and equitable enforcement procedures).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute.

Comments must be in English and provided in fifteen copies to Sandy McKinzy at the addressed provided above. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information of advice. Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding, the U.S. submissions to the panel in the proceeding, the submissions, or non-confidential summaries of submissions, to the panel received from other parties in the dispute, as well as the report of the dispute settlement panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS-176, "Section 211") made be made by calling Brenda Webb, (202) 395-6186. The Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 00-19367 Filed 7-31-00; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

DATES: The meeting will be held on August 15, 2000, at 2 p.m.

ADDRESSES: The meeting will be held in Conference Rooms 8A and B, Federal Office Building 10A (the "FAA Building"), 800 Independence Ave., SW, Washington, DC, 20591.

FOR FURTHER INFORMATION CONTACT: Mark Lawyer, Office of Rulemaking, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 493-4531.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on August 15, 2000. The agenda for this meeting will include a report from the Airplane Performance Working Group and presentation and request for approval of work plan by the Extended Range Operations of Airplanes (ETOPS) Working Group. Attendance is open to the interested public but may be limited by the space available. Members of the public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

If you are in need of assistance or require a reasonable accommodation for this event, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: Issued in Washington, DC, on July 25, 2000.

Gregory L. Michael,

Assistant Executive Director for Air Carrier Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 00-19399 Filed 7-31-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Docket Nos. AB-33 (Sub-No. 148X) and AB-515 (Sub-No. 1X)]

Union Pacific Railroad Company—Abandonment Exemption—In Coos County, OR and Central Oregon & Pacific Railroad, Inc.—Discontinuance Exemption—in Coos County, OR

On July 12, 2000, Union Pacific Railroad Company (UP) and Central Oregon & Pacific Railroad, Inc. (CORP), jointly filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903. UP seeks to abandon and CORP seeks to discontinue service over a line of railroad extending between milepost 785.50 and milepost 786.50 at Coquille, OR, a distance of 1 mile in Coos County, OR (the Line).¹ There are no stations on the Line, which traverses U.S. Postal Service Zip Code 97423.

The Line does not contain federally granted rights-of-way. Any documentation in UP's or CORP's possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 30, 2000.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due

¹ On December 31, 1994, CORP leased the Line from Southern Pacific Transportation Company (SP). See *Central Oregon & Pacific Railroad, Inc.—Lease, Operation, and Acquisition Exemption—Southern Pacific Transportation Company*, Finance Docket No. 32567 (ICC notice served Jan. 19, 1995), (STB decision served Feb. 13, 1996). UP acquired the Line on February 1, 1998, when SP was merged into UP. See *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*, STB Finance Docket No. 32760, Decision No. 44 (STB served Aug. 12, 1996).

no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 and any request for trail use/rail banking under 49 CFR 1152.29 will be due no later than 20 days after notice of the filing of the petition for exemption is published in the **Federal Register**. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB-33 (Sub-No. 148X) and AB-515 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001, (2) Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005, and (3) James P. Gatlin, 1416 Dodge Street #830, Omaha, NE 68179.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 24, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 00-19274 Filed 7-31-00; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. For the quarter beginning July 1, 2000, the interest rates for overpayments will be 8 percent for corporations and 9 percent for non-corporations, and the interest rate for underpayments will be 9 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: July 1, 2000.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis,

Indiana 46278, (317) 298-1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub.L. 105-206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations. The interest rate applicable to underpayments is not so bifurcated.

The interest rates are based on the short-term Federal rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2000-30 (*see*, 2000-25 IRB 1262, dated June 19, 2000), the IRS determined the rates of interest for the fourth quarter of fiscal year (FY) 2000 (the period of July 1-September 30, 2000). The interest rate paid to the Treasury for underpayments will be the short-term Federal rate (6%) plus three percentage points (3%) for a total of nine percent (9%). For corporate overpayments, the rate is the Federal short-term rate (6%) plus two percentage points (2%) for a total of eight percent (8%). For overpayments made by non-corporations, the rate is the Federal short-term rate (6%) plus three percentage points (3%) for a total of nine percent (9%). These interest rates are subject to change the first quarter of FY-2001 (the period of October 1-December 31, 2000).

For the convenience of the importing public and Customs personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	Underpay-ments (percent)	Overpay-ments (percent)	Corporate over-payments (Eff. 1-1-99 (percent))
Prior to:				
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....

Beginning date	Ending date	Underpay- ments (percent)	Overpay- ments (percent)	Corporate over- payments (Eff. 1-1-99 (percent))
040198	123198	8	7	.....
010199	033199	7	7	6
040199	033100	8	8	7
040100	093000	9	9	8

Dated: July 27, 2000.

Raymond W. Kelly,

Commissioner of Customs.

[FR Doc. 00-19400 Filed 7-31-00; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97-33

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97-33, Electronic Federal Tax Payment System (EFTPS).

DATES: Written comments should be received on or before October 2, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electronic Federal Tax Payment System (EFTPS).

OMB Number: 1545-1546.

Revenue Procedure Number: Revenue Procedure 97-33.

Abstract: The Electronic Federal Tax Payment System (EFTPS) is an electronic remittance processing system for making federal tax deposits (FTDs) and federal tax payments (FTPs). Revenue Procedure 97-33 provides taxpayers with information and procedures that will help them to electronically make FTDs and tax payments through EFTPS.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 557,243.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 278,622.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 26, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00-19394 Filed 7-31-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Approved Motor Fuel Distribution Terminals

AGENCY: Internal Revenue Service, (IRS), Treasury

ACTION: Notice of Issuance of Terminal Control Numbers for Approved Motor Fuel Terminals

SUMMARY: Internal Revenue Service (IRS) developed and is publishing in this issue of the Federal Register, Terminal Control Numbers (TCN) to clearly communicate to the motor fuel industry and other interested parties such as state excise taxing authorities, the motor fuel terminal facilities that meet the definitions of Internal Revenue Code Section 4081 and the regulations thereunder. The IRS intends to use the terminal numbers to coordinate dyed fuel compliance activities and excise fuel information reporting systems. IRS encourages states to adopt and use the numbers for motor fuel information reporting where appropriate. This list is published under the authority of Internal Revenue Code Section 6103(k)(7).

What Is a Terminal Control Number (TCN)?

A terminal control number is a number that identifies an approved terminal in the bulk transfer/terminal system. A taxable fuel registrant (Letter of Registration for Tax Free Transactions with a suffix code -S-) will be issued a TCN for each physical location. Only one TCN will be assigned per terminal location per terminal operator.

What Is An Approved Terminal?

Approved motor fuel terminals, as defined by Internal Revenue Code Section 4081 and the regulations thereunder, receive taxable fuel via a pipeline, ship, or barge, deliver taxable fuel across a rack or other non-bulk delivery system and are operated by a terminal operator who is properly registered in good standing with the IRS. Only those taxpayers, who are

registered with the IRS on registration for Tax-Free Transactions Form 637 (637 Registration) with a suffix code of "S" may operate an approved terminal. Each TCN identifies a unique physical location in the bulk transport/delivery system and is therefore independent of the registered operator.

When Does a Terminal Operator Need to Notify IRS of Changes?

A terminal operator must notify the IRS for any of the following changes:

- Terminal ownership or operator changes;
- or
- a new terminal is opened; or
- a terminal ceases operation.

How Should Notification be Made?

Notify the IRS District Office where the Form 637 is issued of the change and by FAX the IRS TCN Coordinator at: Internal Revenue Service OP:E:Ex Unit 35 Attn: TCN Coordinator (859) 292-7128 FAX.

Changes to the terminal status or other information will be published by the Excise Program Office in the IRS Headquarters Office. Notification is required in order to retain approved status of the terminal and 637 Registration. Failure to notify of changes may lead to suspension or revocation of the approved status of the terminal or 637 Registration of the terminal operator. Changes or suspensions of approved status will be published as needed.

If you have any questions regarding the approved terminals or the listing, you may contact: Terminal Control Number Coordinator—Barbara Ruggles at (859) 292-2758 or Mary Burwell at (202) 622-4379 (not toll-free numbers).

Dated: July 24, 2000.
W. Ricky Stiff,
Acting National Director, Specialty Taxes.

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-92-AK-4500	Chevron Anchorage	459 W Bluff Rd	Anchorage	AK	99501
T-92-AK-4501	MAPCO Alaska Anchorage	1076 Ocean Dock Road	Anchorage	AK	99501
T-92-AK-4502	Equilon Enterprises LLC	1601 Tidewater	Anchorage	AK	99501
T-92-AK-4503	MAPCO Alaska North Pole	1150 H & H Lane	North Pole	AK	99705
T-92-AK-4504	Tesoro-Anchorage	1522 Anchorage Port Rd	Anchorage	AK	99501
T-92-AK-4505	Tesoro Alaska Petroleum Co	Mile 22.5 Kenai Spur Road	Kenai	AK	99611
T-63-AL-2300	Amoco Oil Birmingham	1600 Mims Ave. Southwest	Birmingham	AL	35211
T-63-AL-2301	Chevron Birmingham	2400 28th St Southwest	Birmingham	AL	35211
T-63-AL-2302	CITGO Birmingham	2200 25th St Southwest	Birmingham	AL	35211
T-63-AL-2303	Crown Central Birmingham	2500 Nabors Road	Birmingham	AL	35211
T-63-AL-2304	Southeast Terminal Montgomery	Hwy 31 North	Montgomery	AL	36108
T-63-AL-2305	B P Oil Co Birmingham	1600 Mims Ave SW	Birmingham	AL	35211
T-63-AL-2306	MAPLLC Birmingham	2704 28th St Southwest	Birmingham	AL	35211
T-63-AL-2307	Phillips 66 Birmingham	2635 Balsam Avenue	Birmingham	AL	35211
T-63-AL-2308	Motiva Enterprises LLC	2601 Wilson Road	Birmingham	AL	35221
T-63-AL-2309	Southern Facilities Birmingham	2400 Nabors Road	Birmingham	AL	35211
T-63-AL-2310	Motiva Enterprises LLC	2529 28th Street SW	Birmingham	AL	35211
T-63-AL-2312	TransMontaigne Terminaling, Inc.	1600 Mims Ave SW	Birmingham	AL	35211
T-63-AL-2314	Amoco Oil Mobile	Hwy. 90 and 98	Mobile	AL	36601
T-63-AL-2315	Coastal Fuels Mobile	Highway 98, Blakely Island	Mobile	AL	36652
T-63-AL-2316	Coastal Mobile Chickasaw	200 Viaduct Rd	Chickasaw	AL	36611
T-63-AL-2322	Amoco Oil Montgomery	3560 Well Rd	Montgomery	AL	36108
T-63-AL-2323	Chevron USA Montgomery	200 Hunter Loop Road	Montgomery	AL	31608
T-63-AL-2324	B P Oil Montgomery	Access Highway 31 North	Montgomery	AL	36108
T-63-AL-2325	MAPLLC Montgomery	320 Hunter Loop Rural Rt 6	Montgomery	AL	36125
T-63-AL-2326	S T Services Montgomery	520 Hunter Loop Road	Montgomery	AL	36108
T-63-AL-2327	Southern Facilities Montgomery	420 Hunter Loop Road	Montgomery	AL	36108
T-63-AL-2329	Hunt Refining Co	1855 Fairlawn RD	Tuscaloosa	AL	35401
T-63-AL-2330	S T Services Moundville	872 Second Ave.	Moundville	AL	35474
T-63-AL-2333	Murphy Oil USA—Oxford	2625 Highway 78 East	Anniston	AL	36201
T-63-AL-2334	Shell Chemical Co.—Saraland	400 Industrial Parkway	Saraland	AL	36571
T-63-AL-2335	Murphy Sheffield	136 Blackwell Road	Sheffield	AL	35660
T-63-AL-2336	BP OIL MOBILE	101 Bay Bridge Rd	Mobile	AL	36610
T-72-AL-2338	EOTT Energy Corp—Mobile	Magazine Point	Mobile	AL	36610
T-72-AL-2339	Midstream Fuel Service-Mobile	Hwy 90/98 Blakeley Island	Mobile	AL	36618
T-72-AL-2340	Radcliff Economy Marine-Mobile	5 South Water St Extension	Mobile	AL	36652
T-72-AL-2341	SouthEast Terminals	Highway 31 North	Montgomery	AL	36108
T-72-AL-2343	Allied Energy Corporation	2700 Ishkooda Wenonah Rd.	Birmingham	AL	35211
T-72-AL-2344	Goodway Refining, LLC	315 Belleville Av.	Brewton	AL	36427
T-71-AR-2451	Lion Oil El Dorado	1000 McHenry	El Dorado	AR	71730
T-71-AR-2453	Williams Pipe Line Fort Smith	8101 Hwy 71	Fort Smith	AR	72903
T-71-AR-2454	TEPPCO Helena	826 Old Highway	Helena	AR	72342
T-71-AR-2456	Transmontaigne N. Little Rock	2725 Central Airport Rd	North Little Rock	AR	72117
T-71-AR-2457	Exxon USA North Little Rock	2724 Central Airport Rd	North Little Rock	AR	72117
T-71-AR-2458	La Gloria Oil N Little Rock	2626 Central Airport Road	North Little Rock	AR	72117

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-71-AR-2459	Transmontaigne Little Rock	3222 Central Airport Rd	North Little Rock	AR	72117
T-71-AR-2460	Cross Oil Refining & Mktg. Inc.	484 E. 6th Street	Smackover	AR	71762
T-71-AR-2463	Truman Arnold West Memphis	South of 8th Street	West Memphis	AR	72303
T-71-AR-2464	Arkansas Terminaling & Trading	2207 Central Airport Rd.	North Little Rock	AR	72117
T-71-AR-2467	Razorback Terminaling	2801 West Hwy 102 Rt 2	Rogers	AR	72756
T-86-AZ-4300	Caljet Phoenix	125 N 53rd Ave	Phoenix	AZ	85043
T-86-AZ-4301	Chevron USA Phoenix	5110 West Madison	Phoenix	AZ	85043
T-86-AZ-4303	Pro Petroleum Phoenix	408 S 43rd Avenue	Phoenix	AZ	85043
T-86-AZ-4304	SFPP LP Phoenix	49 North 53rd Ave Van Buren	Phoenix	AZ	85043
T-86-AZ-4305	Mobil Oil Phoenix	24 South 51st Ave	Phoenix	AZ	85043
T-86-AZ-4306	Equilon Enterprises LLC	5525 West Van Buren	Phoenix	AZ	85043
T-86-AZ-4307	Tosco Corporation	10 South 51st Avenue	Phoenix	AZ	85043
T-86-AZ-4308	Chevron Products—Tucson	3865 East Refinery Way	Tucson	AZ	85713
T-86-AZ-4309	S T Services Tucson	3605 South Dodge	Tucson	AZ	85713
T-86-AZ-4310	SFPP LP Tucson	3841 East Refinery Way	Tucson	AZ	85713
T-86-AZ-4312	Equilon Enterprises LLC	3735 South Dodge Boulevard	Tucson	AZ	85713
T-86-AZ-4313	ARCO Phoenix	5333 W Van Buren St	Phoenix	AZ	85043
T-33-CA-4750	Mobil Oil Atwood	1477 Jefferson	Anaheim	CA	92807
T-33-CA-4751	GATX Tank Storage	2000 East Sepulveda Blvd.	Carson	CA	90810
T-33-CA-4752	Tosco Corporation Wilmington	1660 W Anaheim St	Wilmington	CA	90744
T-33-CA-4753	ARCO Colton	2395 S Riverside Avenue	Bloomington	CA	92316
T-33-CA-4754	Kinder-Morgan Energy Partners #4	2305 S Riverside Avenue	Bloomington	CA	92316
T-33-CA-4756	Kinder-Morgan Energy Partners #2	2297 South Riverside Avenue	Bloomington	CA	92316
T-33-CA-4757	Kinder-Morgan Energy Partners #1	2359 S. Riverside Avenue	Bloomington	CA	92316
T-33-CA-4758	Equilon Enterprises LLC	2307 S. Riverside Ave.	Colton	CA	92316
T-33-CA-4759	Equilon Enterprises LLC	2237 S. Riverside Avenue	Bloomington	CA	92316
T-33-CA-4760	Tosco Refining Colton	271 E Slover Avenue	Rialto	CA	92376
T-33-CA-4761	Calnev Pipe Line Daggett	34277 Daggett-Yermo Road	Robert Brown	CA	92327
T-33-CA-4763	Kinder-Morgan Energy Partners	345 W Aten Road	Imperial	CA	92251
T-33-CA-4764	ARCO Long Beach	5905 Paramount Blvd.	Long Beach	CA	90805
T-33-CA-4765	Edington Oil Co.	2400 E. Artesia Bl.	Long Beach	CA	90805
T-33-CA-4766	Tosco Corporation Bloomington	2301 S. Riverside	Bloomington	CA	92316
T-33-CA-4767	Petro-Diamond Terminal Company	1920 Lugger Way	Long Beach	CA	90813
T-33-CA-4768	Equilon Enterprises LLC	1926 E. Pacific Coast Hwy	Wilmington	CA	90744
T-33-CA-4769	ARCO Carson	2149 E. Sepulveda Blvd.	Carson	CA	90749
T-33-CA-4770	Equilon Enterprises LLC	2101 E. Pacific Coast Hwy	Wilmington	CA	90744
T-33-CA-4771	Chevron USA Huntington Beach	17881 Gothard St.	Huntington Beach	CA	92647
T-33-CA-4772	Kinder-Morgan Energy Partners LLP.	1350 North Main Street	Orange	CA	92667
T-33-CA-4773	Chevron USA San Diego	2351 E. Harbor Drive	San Diego	CA	92113
T-33-CA-4776	SFPP, LP	9950 San Diego Mission Road	San Diego	CA	92108
T-33-CA-4777	Equilon Enterprises LLC	9950 San Diego Mission Blvd.	San Diego	CA	92108
T-33-CA-4778	Equilon Enterprises LLC	9966 San Diego Mission Rd.	San Diego	CA	92108
T-33-CA-4779	Chemoil Long Beach	2365 E. Sepulveda Blvd.	Long Beach	CA	90810
T-33-CA-4780	Westway Terminal—San Pedro	Port of LA Berths 70-71	San Pedro	CA	90733
T-33-CA-4782	ARCO San Diego	2295 E. Harbor Drive	San Diego	CA	92113
T-33-CA-4783	Mobil Oil San Diego	9950 San Diego Mission Rd	San Diego	CA	92108
T-33-CA-4784	ARCO Signal Hill	2350 Hathaway Drive	Signal Hill	CA	90806
T-33-CA-4785	Equilon Enterprises LLC	2457 Redondo Ave.	Signal Hill	CA	90806
T-33-CA-4786	Mobil Oil Torrance	3700 West 190th Street	Torrance	CA	90509
T-33-CA-4789	Ultramar Inc. Wilmington	2402 E Anaheim St	Wilmington	CA	90744
T-68-CA-4600	Kinder-Morgan Energy Partners	2570 Hegan Lane	Chico	CA	95927
T-68-CA-4601	Kinder-Morgan Energy Partners	2590 Hegan Lane	Chico	CA	95928
T-68-CA-4603	Valero Refining Company	3410 East Second Street	Benicia	CA	94510
T-68-CA-4604	Chevron USA Banta	22888 S. Kasson Rd.	Tracy	CA	95376
T-68-CA-4605	Shore Terminals LLC	90 San Pablo Ave	Crockett	CA	94525
T-68-CA-4606	Chevron USA Eureka	3400 Christie Street	Eureka	CA	95501
T-68-CA-4607	Chevron USA Avon	611 Solano Way	Martinez	CA	94553
T-68-CA-4609	ARCO Stockton Terminal	2700 West Washington St	Stockton	CA	95203
T-68-CA-4610	Equilon Enterprises LLC	1801 Marina Vista	Martinez	CA	94553
T-68-CA-4611	Tosco Refining Martinez	Solano Way & Waterfront Rd.	Martinez	CA	94553
T-68-CA-4612	ARCO Sacramento	1701 S. River Rd	West Sacramento	CA	95691
T-68-CA-4613	Kinder-Morgan Energy Partners	2901 Bradshaw Rd	Rancho Cordova	CA	95741
T-68-CA-4614	ARCO Richmond	1306 Canal Blvd	Richmond	CA	94807
T-68-CA-4616	Chevron Richmond	155 Castro St	Richmond	CA	94802
T-68-CA-4617	Tosco Corporation Richmond	1300 Canal Blvd	Richmond	CA	94804
T-68-CA-4619	IMTT Richmond-CA	100 Cutting Blvd.	Richmond	CA	94804
T-68-CA-4621	Chevron USA Sacramento	2420 Front Street	Sacramento	CA	95818
T-68-CA-4622	Equilon Enterprises LLC	1509 South River Road	West Sacramento	CA	95691
T-68-CA-4626	S T Services Stockton	2941 Navy Drive	Stockton	CA	95206
T-68-CA-4628	Equilon Enterprises LLC	3515 Navy Drive	Stockton	CA	95203
T-68-CA-4629	Tesoro Refining Mktg Stockton	3003 Navy Drive	Stockton	CA	95205

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-77-CA-4650	Chevron Products Co.	1020 Berryessa Road	San Jose	CA	95133
T-77-CA-4651	Kinder Morgan Energy Partners LP	4149 South Maple Avenue	Fresno	CA	93725
T-77-CA-4652	Kinder Morgan Energy Partners LP	2150 Kruse Avenue	San Jose	CA	95131
T-77-CA-4653	Equilon Enterprises LLC	2165 O'Toole Ave.	San Jose	CA	95131
T-77-CA-4654	Equilon Enterprises LLC	3284 North Ventura Ave.	Ventura	CA	93001
T-77-CA-4655	Kern Oil & Refining Co.	7724 East Panama Lane	Bakersfield	CA	93307
T-77-CA-4657	Equilon Enterprises LLC	2436 Fruitvale Avenue	Bakersfield	CA	93302
T-77-CA-4658	Tesoro Marine Services, Inc.	141 West Hueneme Road	Pt. Hueneme	CA	93041
T-77-CA-4659	Occidental of Elk Hills, Inc.	28590 Hwy. 119	Tupman	CA	93276
T-77-CA-4661	Golden Bear Oil Specialties	1134 Manor	Oildale	CA	93308
T-77-CA-4664	San Joaquin Refining Co., Inc.	3542 Shell St.	Bakersfield	CA	93308
T-94-CA-4700	Kinder-Morgan Energy Partners, LP	950 Tunnel Av.	Brisbane	CA	94005
T-94-CA-4703	Equilon Enterprises LLC	135 North Access Road	So. San Francisco	CA	94080
T-94-CA-4705	Shore Terminals LLC	488 Wright Ave.	Richmond	CA	94802
T-95-CA-4800	Chevron USA El Segundo	324 West El Segundo Blvd	El Segundo	CA	90245
T-95-CA-4803	Tosco S. Broadway Los Angeles	13500 South Broadway	Los Angeles	CA	90061
T-95-CA-4804	Equilon Enterprises LLC	8100 Haskell Ave.	Van Nuys	CA	91406
T-95-CA-4805	Mobil Oil—Vernon	2709 East 37th Street	Vernon	CA	90058
T-95-CA-4807	ARCO South Gate	8601 S. Garfield Ave.	South Gate	CA	90280
T-95-CA-4808	Paramount Petroleum	8835 Sommerset Blvd.	Paramount	CA	90746
T-95-CA-4809	Equilon Enterprises LLC	2015 Long Beach Ave.	Los Angeles	CA	90058
T-95-CA-4810	Chevron USA Van Nuys	15359 Oxnard Street	Van Nuys	CA	91411
T-95-CA-4811	Chevron USA Montebella	601 South Vail Avenue	Montebella	CA	90640
T-84-CO-4100	Chase Pipeline Aurora	15000 E. Smith Rd.	Aurora	CO	80011
T-84-CO-4101	Colorado Refining Denver	5800 Brighton Boulevard	Commerce City	CO	80022
T-84-CO-4102	Conoco Denver	5575 Brighton Boulevard	Commerce City	CO	80022
T-84-CO-4103	Diamond Shamrock Denver	3601 East 56th Street	Commerce City	CO	80022
T-84-CO-4104	Phillips 66 Commerce City	3960 East 56th Avenue	Commerce City	CO	80022
T-84-CO-4105	Kaneb Pipeline Dupont	8160 Krameria	DuPont	CO	80024
T-84-CO-4106	Kaneb Pipeline Fountain	1004 S. Sante Fe	Fountain	CO	80817
T-84-CO-4107	Landmark Petroleum Fruita	1493 Hwy 6 & 50	Fruita	CO	81521
T-84-CO-4108	Diamond Colorado Springs	7810 Drennan	Colorado Springs	CO	80925
T-84-CO-4109	Sinclair Pipeline Henderson	8581 East 96th Ave	Henderson	CO	80640
T-84-CO-4110	Phillips Pipeline Co.—LaJunta Terminal.	31610 East Hwy 50	LaJunta	CO	81050
T-06-CT-1250	Hoffman Fuel Co. of Bridgeport	156 East Washington Ave	Bridgeport	CT	06604
T-06-CT-1251	Sprague Energy Stamford	10 Water St	Stamford	CT	06902
T-06-CT-1252	CITGO Rocky Hill	109 Dividend Road	Rocky Hill	CT	06067
T-06-CT-1253	Motiva Enterprises LLC	211 Riverside Drive	East Hartford	CT	06108
T-06-CT-1254	Motiva Enterprises LLC	481 East Shore Parkway	New Haven	CT	06512
T-06-CT-1255	Amerada Hess—Groton	443 Eastern Point Road	Groton	CT	06340
T-06-CT-1256	Motiva Enterprises LLC	250 Eagles Nest Rd.	Bridgeport	CT	06607
T-06-CT-1257	Amerada Hess—New Haven	100 River Street	New Haven	CT	06513
T-06-CT-1258	New Haven Terminal Inc	100 Waterfront St	New Haven	CT	06512
T-06-CT-1259	Amerada Hess—Wethersfield	50 Burbank Road	Wethersfield	CT	06109
T-06-CT-1261	Getty Terminal New Haven	85 Forbes Avenue	New Haven	CT	06512
T-06-CT-1262	Gulf Oil LP—New Haven	500 Waterfront Street	New Haven	CT	06512
T-06-CT-1263	Wyatt Energy, Inc.	134 Forbes Avenue	New Haven	CT	06512
T-06-CT-1264	Gateway Terminal New Haven	400 Waterfront St	New Haven	CT	06512
T-06-CT-1265	Wyatt Energy, Inc.	85 East Street	New Haven	CT	06536
T-06-CT-1266	Hi- Ho Petroleum	85 Harbor Street	Bridgeport	CT	06605
T-06-CT-1267	Consumer Petroleum Wholesaler	One Eagles Nest Rd	Bridgeport	CT	06605
T-06-CT-1269	38 Duffy Ave., LLC	56 Brownstone Ave.	Portland	CT	06480
T-06-CT-1270	Northeast Petroleum—Wethersfield	80 Burbank Road	Wethersfield	CT	06109
T-06-CT-1271	Signature Flight Support	100 Signature Way	East Granby	CT	06026
T-06-CT-1272	Devine Bros. Inc.—Norwalk	38 Commerce St	Norwalk	CT	06850
T-06-CT-1274	Wyatt Energy Incorporated	280 Waterfront St	New Haven	CT	06512
T-06-CT-1277	Sprague Energy	247 Riverside Dr.	East Hartford	CT	06902
T-06-CT-1279	Inland Fuel Terminal	154 Admiral St.	Bridgeport	CT	06605
T-06-CT-1280	B & B Petroleum Inc.	32 Brownstone Ave	Portland	CT	06480
T-06-CT-1281	Hall & Muska, Inc.	152 Broad Brook Rd	Broad Brook	CT	06016
T-06-CT-1282	Anthony Troisno & Sons, Inc.	777 Enfield St.	Enfield	CT	06082
T-06-CT-1284	Port Oil	248 Brownstone Ave.	Portland	CT	06480
T-06-CT-1285	Heating Oil Partners LP	410 Bank St.	New London	CT	06320
T-06-CT-1286	NORAA Enterprises, Inc.	1351 Main Street	East Hartford	CT	06109
T-52-MD-1564	S T Services Washington (M St)	1333 M St SE	Washington	DC	20003
T-54-VA-1686	Ogden Aviation Fueling Co., Inc.	11 Air Cargo Rd.	Washington	DC	20001
T-51-DE-1600	Motiva Enterprises LLC	River Rd and J Street	Delaware City	DE	19706
T-51-DE-1601	Blades Terminal-Peninsula Oil	Blades Causeway	Blades	DE	19973
T-51-DE-1603	Wilco Inc, Peninsula Oil Co	Blades Causeway	Seaford	DE	19973
T-52-MD-1572	The Sico Company	1050 Christiana Ave.	Wilmington	DE	19801
T-59-FL-2100	Murphy Oil USA Tampa	1306 Ingram Ave	Tampa	FL	33605

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-59-FL-2101	TransMontaigne Terminating, Inc. ..	1523 Port Avenue	Tampa	FL	33605
T-59-FL-2102	Amerada Hess—Jacksonville	2617 Heckscher Drive	Jacksonville	FL	32226
T-59-FL-2103	Williams Energy Services, Inc.	2054 Heckscher Drive	Jacksonville	FL	32226
T-59-FL-2104	Chevron Products Company	3117 Talleyrand Avenue	Jacksonville	FL	32206
T-59-FL-2105	Coastal Fuels Jacksonville	3425 Talleyrand Avenue	Jacksonville	FL	32206
T-59-FL-2106	B P-Amoco Oil Jacksonville	12101 Heckscher Dr	Jacksonville	FL	32218
T-59-FL-2107	Amerada Hess—Tampa	504 N 19th Street	Tampa	FL	33605
T-59-FL-2109	Petroleum Fuel Jacksonville	1961 E Adams St	Jacksonville	FL	32202
T-59-FL-2112	S T Services Jacksonville	6531 Evergreen Avenue	Jacksonville	FL	32208
T-59-FL-2114	CITGO—Niceville	904 Bayshore Drive	Niceville	FL	32578
T-59-FL-2115	Murphy Oil Freeport	424 Madison St	Freeport	FL	32439
T-59-FL-2116	Chevron USA Product Co	525 West Beach Drive	Panama City	FL	32402
T-59-FL-2117	CITGO Panama City	122 S Center Ave	Panama City	FL	32401
T-59-FL-2118	Coastal Fuels Pensacola	640 S Barracks St	Pensacola	FL	32501
T-59-FL-2119	Radcliff/Economy-Pensacola	3100 Barrancas Avenue	Pensacola	FL	32507
T-59-FL-2120	TransMontaigne Terminating, Inc. ..	511 South Clubb St	Pensacola	FL	32501
T-59-FL-2122	Coastal Fuels Port Manatee	804 N Dock St	Palmetto	FL	34220
T-59-FL-2123	GATX Terminals Port Tampa	2101 GATX Drive	Tampa	FL	33605
T-59-FL-2124	Motiva Enterprises LLC	6500 Commerce St	Port Tampa	FL	33616
T-59-FL-2125	Murphy Oil St Marks	585 Port Leon Drive	St Marks	FL	32355
T-59-FL-2127	TOC Terminals St Marks	815 Port Leon Drive	St. Marks	FL	32355
T-59-FL-2129	GATX Terminal Taft (CFPL)	9919 Orange Avenue	Orlando	FL	32824
T-59-FL-2130	Amoco Oil Tampa	848 McCloskey Boulevard	Tampa	FL	33605
T-59-FL-2131	Chevron USA Tampa	5500 Commerce Street	Tampa	FL	33616
T-59-FL-2133	CITGO Tampa	801 McCloskey Blvd	Tampa	FL	33605
T-59-FL-2136	MAPLLC Oil Tampa	425 South 20th Street	Tampa	FL	33605
T-59-FL-2138	Coastal Fuels Cape Canaveral	10 Tanker Turn Rd.	Cape Canaveral	FL	32920
T-65-FL-2150	Coastal Fuels Port Everglades	2401 Eisenhower Blvd	Fort Lauderdale	FL	33316
T-65-FL-2151	S T Services Homestead	13195 S W 288th Street	Homestead	FL	33033
T-65-FL-2152	Amoco Oil Port Everglades	1180 Spangler Road	Port Everglades	FL	33316
T-65-FL-2153	Chevron USA Port Everglades	1400 SE 24th St	Fort Lauderdale	FL	33335
T-65-FL-2154	Motiva Enterprises LLC	1500 SE 26 St	Ft. Lauderdale	FL	33316
T-65-FL-2155	Texaco Refining & Marketing, Inc. ..	4350 NW 20 St., Bldg. 3100	Miami	FL	33359
T-65-FL-2156	Amerada Hess—Port Everglades ..	1501 SE 20th St.	Fort Lauderdale	FL	33316
T-65-FL-2157	CITGO Port Everglades	800 SE 28th Street	Fort Lauderdale	FL	33316
T-65-FL-2160	MAPLLC Oil Port Everglades	1601 SE 20th St	Fort Lauderdale	FL	33316
T-65-FL-2161	Mobil Oil Port Everglades	1150 Spangler Blvd	Fort Lauderdale	FL	33316
T-65-FL-2163	Motiva Enterprises LLC	909 S.E. 24 St.	Fort Lauderdale	FL	33316
T-65-FL-2164	Motiva Enterprises LLC	1200 SE 28th St	Port Everglades	FL	33316
T-65-FL-2165	TransMontaigne Terminating, Inc. ..	2701 SE 14th Ave	Fort Lauderdale	FL	33316
T-75-TX-2677	Martin Gas Sales, Inc.	4118 Pendola Point Rd.	Tampa	FL	33617
T-58-GA-2500	Phillips Pipeline Albany	1603 W Oakridge Dr	Albany	GA	31707
T-58-GA-2501	Williams Energy Ventures-Alban	1722 W Oakridge Dr	Albany	GA	31707
T-58-GA-2502	TransMontaigne Terminating, Inc. ..	1162 Gillionville Rd	Albany	GA	31707
T-58-GA-2504	S T Services Augusta	209 Sand Bar Ferry Road	Augusta	GA	30901
T-58-GA-2505	TransMontaigne Terminating, Inc. ..	Plains Road Highway 280 West	Americus	GA	31709
T-58-GA-2506	Charter—TRIAD Terminals LLC	3460 Jefferson Road	Athens	GA	30607
T-58-GA-2507	S T Services, West Terminal	2 Walstrom Rd.	Savannah	GA	31404
T-58-GA-2508	TransMontaigne Terminating, Inc. ..	3450 Jefferson Road	Athens	GA	30607
T-58-GA-2510	Motiva Enterprises LLC	4127 Winter Chapel Rd.	Doraville	GA	30360
T-58-GA-2511	TransMontaigne Terminating, Inc. ..	3132 Parrott Avenue Northwest	Atlanta	GA	30318
T-58-GA-2514	Motiva Enterprises LLC	803 East Shotwell St.	Bainbridge	GA	31717
T-58-GA-2515	TransMontaigne Terminating, Inc. ..	1909 East Shotwell Street	Bainbridge	GA	31717
T-58-GA-2516	Stratus Petroleum Blakely	Hwy 62 W & Chattahoochee Rd	Blakely	GA	31723
T-58-GA-2517	S T Services Bremen	870 Alabama Avenue	Bremen	GA	30110
T-58-GA-2518	S T Services Brunswick	211 Newcastle Street NW	Brunswick	GA	31520
T-58-GA-2519	Fina Oil & Chemical Atlanta	2970 Parrott Avenue	Atlanta	GA	30318
T-58-GA-2520	Chevron USA Columbus	5131 Miller Road	Columbus	GA	31908
T-58-GA-2521	Crown Central Columbus	4840 Miller Rd	Columbus	GA	31904
T-58-GA-2522	ITAPCO Inc Columbus	5225 Miller Road	Columbus	GA	31904
T-58-GA-2523	MAPLLC Oil Columbus	5030 Miller Road	Columbus	GA	31909
T-58-GA-2524	S T Services Columbus	800 Lumpkin Boulevard	Columbus	GA	31901
T-58-GA-2525	TransMontaigne Terminating, Inc. ..	2836 Woodwin Road	Doraville	GA	30362
T-58-GA-2526	Amoco Doraville Peachtree	6430 New Peachtree Road	Doraville	GA	30340
T-58-GA-2527	Motiva Enterprises LLC	4201 Winters Chappel Rd.	Doraville	GA	30340
T-58-GA-2528	Chevron USA Doraville	4026 Winters Chapel Road	Doraville	GA	30362
T-58-GA-2529	CITGO Doraville	3877 Flowers Drive	Doraville	GA	30362
T-58-GA-2531	Motiva Enterprises LLC	4143 Winters Chapel Rd	Doraville	GA	30360
T-58-GA-2532	MAPLLC Oil Doraville	6293 New Peachtree Road	Doraville	GA	30341
T-58-GA-2533	William Energy Ventures, Inc.	4149 Winters Chapel Road	Doraville	GA	30360
T-58-GA-2534	Amoco Doraville Chapel	4064 Winters Chapel Rd	Doraville	GA	30340
T-58-GA-2535	Southern Facilities Doraville	2797 Woodwin Road	Doraville	GA	30360

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-58-GA-2537	TransMontaigne Terminaling, Inc.	643B East McIntosh Road	Griffin	GA	30223
T-58-GA-2538	Chevron USA Macon	2476 Allen Road	Macon	GA	31206
T-58-GA-2541	MAPLLC Oil Macon	2445 Allen Road	Macon	GA	31206
T-58-GA-2542	S T Services Macon	6225 Hawkinsville Road	Macon	GA	31216
T-58-GA-2543	Southern Facilities Macon	2505 Allen Road	Macon	GA	31206
T-58-GA-2544	TransMontaigne Terminaling, Inc.	5041 Forsyth Rd.	Macon	GA	31210
T-58-GA-2545	MAPLLC Oil Powder Springs	3895 Anderson Farm Road NW	Powder Springs	GA	30073
T-58-GA-2547	TransMontaigne Terminaling, Inc.	2671 Calhoun Road	Rome	GA	30161
T-58-GA-2550	Colonial Terminal, Inc.	101 North Lathrop Ave	Savannah	GA	31415
T-58-GA-2551	Paktank Corp Savannah Term	Georgia Ports Garden City	Savannah	GA	31418
T-99-HI-4550	Tesoro Hawaii Corp. Refinery	91-325 Komohana St.	Kapolei	HI	96707
T-99-HI-4551	Aloha Petroleum Ltd.	91-119 Hanua Street	Kapolei	HI	96706
T-99-HI-4552	Chevron USA Hilo	666 Kalaniana'ole Avenue	Hilo	HI	96720
T-99-HI-4553	Chevron USA Honolulu	933 North Nimitz Highway	Honolulu	HI	96817
T-99-HI-4554	Chevron USA Kahului	100 A Hobron Avenue	Kahului	HI	96732
T-99-HI-4555	Chevron USA Port Allen	A & B Road, Port Allen	Eleele	HI	96705
T-99-HI-4556	Tosco Refining Co.	411 Pacific St	Honolulu	HI	96814
T-99-HI-4557	Equilon Enterprises LLC	789 N. Nimitz Hwy.	Honolulu	HI	96817
T-99-HI-4558	Equilon Enterprises LLC	661 Kalaniana'ole Ave.	Hilo	HI	96720
T-99-HI-4559	Tesoro Hawaii Corporation	607 Kalaniana'ole Ave.	Hilo	HI	96720
T-99-HI-4560	Aloha Petroleum Ltd.	999 Kalaniana'ole Ave.	Hilo	HI	96720
T-99-HI-4561	Tesoro Hawaii Corporation	701 Kalaniana'ole Street	Hilo	HI	96720
T-99-HI-4562	Shell Oil Nawiliwili	3145 Waapa Rd.	Lihue	HI	96766
T-99-HI-4563	Tesoro Hawaii Corporation	140 H Hobron Ave	Kahului	HI	96732
T-99-HI-4564	Equilon Enterprises LLC	60 Hobron Ave.	Kahului	HI	96732
T-99-HI-4567	Tosco Kawaihae	No. 1 Kawaihae Road	Kamuela	HI	96743
T-99-HI-4568	Tesoro Hawaii Corporation	2 Sand Island Access Rd.	Honolulu	HI	96819
T-99-HI-4569	Tesoro Hawaii Corporation	Pier 34	Honolulu	HI	96817
T-39-IA-3475	Sinclair Terminal	2506 260th St.	Montrose	IA	52639
T-42-IA-3450	Amoco Oil Bettendorf	75 South 31st Street	Bettendorf	IA	52722
T-42-IA-3451	Koch Petroleum Group-Bettendorf	4100 Elm St	Bettendorf	IA	52722
T-42-IA-3452	Phillips Pipeline Company	2925 Depot Street	Bettendorf	IA	52722
T-42-IA-3453	Williams Pipe Line Sioux South	3701 South Lewis Blvd	Sioux City	IA	51106
T-42-IA-3454	Amoco Oil Council Bluffs	829 East South Bridge Rd	Council Bluffs	IA	51501
T-42-IA-3455	National Coop. Council Bluffs	825 East South Omaha Bridge Rd	Council Bluffs	IA	51502
T-42-IA-3456	Amoco Oil Des Moines	1501 Northwest 86th Street	Des Moines	IA	50325
T-42-IA-3457	Williams Pipe Line Des Moines	2503 Southeast 43rd Street	Des Moines	IA	50317
T-42-IA-3458	Amoco Oil Dubuque	15437 Olde Highway Rd.	Dubuque	IA	52001
T-42-IA-3460	Williams Pipe Line Dubuque	8038 St Joe's Prairie Rd	Dubuque	IA	52003
T-42-IA-3461	Williams Pipe Line Fort Dodge	6 miles from Ft Dodge	Duncombe	IA	50532
T-42-IA-3463	Williams Pipe Line Iowa City	912 First Avenue	Coralville	IA	52241
T-42-IA-3464	Kaneb Pipe Line Le Mars	US Hwy 75/7 Miles N of LeMars	Le Mars	IA	51031
T-42-IA-3465	Williams Pipe Line Mason City	2810 East Main	Clear Lake	IA	50428
T-42-IA-3466	Kaneb Pipe Line Milford	1 mile W of Milford & Hwy 71	Milford	IA	51351
T-42-IA-3467	Williams Pipe Line Milford	RT #1	Milford	IA	51351
T-42-IA-3468	Amoco Oil North Liberty	2092 Hwy. 965 NE	North Liberty	IA	52317
T-42-IA-3469	Amoco Oil Ottumwa	Three miles west on US 34	Ottumwa	IA	52501
T-42-IA-3470	Conoco Pipeline Co.	4500 Vandalia	Pleasant Hill	IA	50317
T-42-IA-3471	CITGO—Bettendorf	312 South Bellingham Street	Bettendorf	IA	52722
T-42-IA-3472	Kaneb Pipeline Rock Rapids	State Hwy 9	Rock Rapids	IA	51246
T-42-IA-3473	Williams Pipe Line Sioux City	4300 41st Street	Sioux City	IA	51108
T-42-IA-3474	Williams Pipe Line Waterloo	5360 Eldora Rd	Waterloo	IA	50701
T-82-ID-4150	Boise Idaho Terminal	321 North Curtis Road	Boise	ID	83707
T-82-ID-4151	Northwest Terminaling Boise	201 N. Phillips Rd.	Boise	ID	83704
T-82-ID-4152	United Products Terminal	70 North Philipi Road	Boise	ID	83706
T-82-ID-4155	Amoco Oil Burley	421 East Highway 81	Burley	ID	83318
T-82-ID-4157	Burley Products Terminal	425 East Hwy 81 PO Box 233	Burley	ID	83318
T-82-ID-4159	Chevron Pipeline Pocatello	1189 Tank Farm Rd.	Pocatello	ID	83201
T-36-IL-3300	Clark Refining and Marketing Inc.	131st & Homan Avenue	Blue Island	IL	60406
T-36-IL-3301	Amoco Oil Des Plaines	2201 South Elmhurst Rd	Des Plaines	IL	60018
T-36-IL-3302	Amoco Oil Forest View	4811 South Harlem Avenue	Forest View	IL	60402
T-36-IL-3303	Amoco Oil Company—Rochelle	100 East Standard Oil Road	Rochelle	IL	61068
T-36-IL-3304	CITGO Mt Prospect	2316 Terminal Drive	Arlington Heights	IL	60005
T-36-IL-3305	GATX Terminals Argo	8500 West 68th Street	Argo	IL	60501
T-36-IL-3306	Equilon Enterprises LLC	1511 South Meridian Rd	Rockford	IL	61102
T-36-IL-3307	Marathon Mt Prospect	3231 Busse Road	Arlington Heights	IL	60005
T-36-IL-3308	MAPLLC Oil Rockford	7312 Cunningham Road	Rockford	IL	61102
T-36-IL-3309	MAPLLC Willow Springs	7600 LaGrange Road	Willow Springs	IL	60480
T-36-IL-3310	S T Services—Blue Island	3210 West 131st Street	Blue Island	IL	60406
T-36-IL-3311	Mobil Oil Des Plaines	2312 Terminal Drive	Des Plaines	IL	60005
T-36-IL-3312	Petroleum Fuel Forest View	4801 South Harlem	Forest View	IL	60402
T-36-IL-3313	Phillips Pipeline Company—Kankakee.	275 North 2760 West Road	Kankakee	IL	60901

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-36-IL-3314	S T Services—Peru	2830 West Market Street	Peru	IL	61354
T-36-IL-3315	Equilon Enterprises LLC	8600 West 71st. Street	Bedford Park	IL	60501
T-36-IL-3316	Equilon Enterprises LLC	1605 E. Algonquin Road	Des Plaines	IL	60005
T-36-IL-3317	CITGO Petroleum Corp.—Lemont	135th & New Avenue	Lemont	IL	60439
T-36-IL-3318	CITGO—Des Plaines	2304 Terminal Drive	Des Plaines	IL	60056
T-36-IL-3319	Williams Pipe Line—Amboy	1222 U S Route 30	Amboy	IL	61310
T-36-IL-3320	Williams Pipeline Franklin	10601 Franklin Avenue	Franklin Park	IL	60131
T-36-IL-3322	Equilon Enterprises LLC—Des Plaines.	1000 Terminal Drive	Arlington Heights	IL	60005
T-36-IL-3323	TransMontaign Terminaling, Inc.	14410 North Old Galena Rd.	Chillicothe	IL	61523
T-36-IL-3324	Kinder Morgan Morris Complex	4755 E. Route 6	Morris	IL	60450
T-36-IL-3373	Clark Refining & Marketing Co.—Blue Is.	Kedzie Ave. & 131st	Blue Island	IL	60406
T-36-IL-3375	Mobil Oil Corporation—Lockport	1290 High Road	Lockport	IL	60441
T-37-IL-3351	Amoco Oil Wood River	335 South Old St Louis Rd	Wood River	IL	62095
T-37-IL-3352	Equilon Enterprises LLC	7022 South Cilco Lane	Bartonville	IL	61607
T-37-IL-3353	Conoco Wood River	Route 3	Hartford	IL	62048
T-37-IL-3354	Hartford Wood River	900 North Delmar	Hartford	IL	62048
T-37-IL-3355	Hicks Oils & Hicks Gas Inc	1118 Wesley Road	Creve Coeur	IL	61610
T-37-IL-3356	Equilon Enterprises LLC	South Side Hawthorne	Hartford	IL	62048
T-37-IL-3358	MAPLLC Champaign	511 S. Staley Road	Champaign	IL	61821
T-37-IL-3360	MAPLLC Robinson	Rural Route One	Robinson	IL	62454
T-37-IL-3361	La Gloria Oil Norris City	Rural Route 2	Norris City	IL	62869
T-37-IL-3362	Petroleum Fuel Granite City	2801 Rock Road	Granite City	IL	62040
T-37-IL-3364	Meioco Terminal	Rt 49 South	Ashkum	IL	60911
T-37-IL-3365	Phillips 66 Decatur	266 E Shafer	Forsyth	IL	62535
T-37-IL-3366	Phillips Petroleum E St Louis	3300 Mississippi Ave	Cahokia	IL	62206
T-37-IL-3367	S T Services—Chillicothe	20206 North State Rd, Rt 29	Chillicothe	IL	61523
T-37-IL-3368	Equilon Enterprises LLC	Route 45 N. R.R. 3	Effingham	IL	62401
T-37-IL-3369	Equilon Enterprises LLC	600 E. Lincoln Memorial Pky	Harristown	IL	62537
T-37-IL-3371	Williams Pipe Line Heyworth	Rural Route Two	Heyworth	IL	61745
T-37-IL-3372	Williams Pipe Line Menard Cty	Rural Route Three	Petersburg	IL	62675
T-43-IL-3729	Center Terminal Co—Hartford	1402 S Delmare	Hartford	IL	62048
T-35-IN-3201	Amoco Oil Brookston	11555 South IN 43	Brookston	IN	47923
T-35-IN-3202	Equilon Enterprises LLC	1020 141st St	Hammond	IN	46320
T-35-IN-3203	Amoco Oil Granger	12694 Adams Rd	Granger	IN	46530
T-35-IN-3204	Amoco Oil Indianapolis	2500 N Tibbs Avenue	Indianapolis	IN	46222
T-35-IN-3205	Amoco Oil Whiting	2530 Indianapolis Blvd.	Whiting	IN	46394
T-35-IN-3206	MAPLLC Clarksville	214 Center Street	Clarksville	IN	47124
T-35-IN-3207	MAPLLC Evansville	2500 Broadway	Evansville	IN	47712
T-35-IN-3208	MAPLLC Huntington	4648 N. Meridian Road	Huntington	IN	46750
T-35-IN-3209	CITGO East Chicago	2500 East Chicago Ave	East Chicago	IN	46312
T-35-IN-3210	CITGO Huntington	4393 N Meridian Rd US 24	Huntington	IN	46750
T-35-IN-3211	Gladioux T & M Huntington	4757 US 24 E	Huntington	IN	46750
T-35-IN-3212	Kentuckiana Terminal	20 Jackson St	New Albany	IN	47150
T-35-IN-3213	Transmontaigne Terminaling Inc	2630 Broadway	Evansville	IN	47712
T-35-IN-3214	CountryMark—Mount Vernon	1200 Refinery Road	Mount Vernon	IN	47620
T-35-IN-3215	Crown Central Petro—Clermont	9323 West 30th	Clermont	IN	46234
T-35-IN-3216	Crown Central Petro—Seymour	9780 N US Hwy 31	Seymour	IN	47274
T-35-IN-3217	Equilon Enterprises LLC	10470 E County Rd, 300 North	Clermont	IN	46234
T-35-IN-3218	MAPLLC Hammond	4206 Columbia Avenue	Hammond	IN	46327
T-35-IN-3219	MAPLLC Indianapolis	4955 Robison Rd	Indianapolis	IN	46268
T-35-IN-3220	MAPLLC Mount Vernon	Old State Rd #69 South	Mount Vernon	IN	47620
T-35-IN-3221	MAPLLC Muncie	2100 East State Road 28	Muncie	IN	47303
T-35-IN-3222	MAPLLC Speedway	1304 Olin Ave	Indianapolis	IN	46222
T-35-IN-3224	Mobil Oil Hammond	1527 141th Street	Hammond	IN	46327
T-35-IN-3225	Phillips 66 East Chicago	400 East Columbus Dr	East Chicago	IN	46312
T-35-IN-3226	Phillips 66 Clermont	3230 N Raceway Road	Indianapolis	IN	46234
T-35-IN-3227	S T Services Clermont	3350 N Raceway Rd	Indianapolis	IN	46234
T-35-IN-3228	Equilon Enterprises LLC	2400 Michigan St.	Hammond	IN	46320
T-35-IN-3229	Equilon Enterprises LLC	2000 E. State Rd. 28	Muncie	IN	47302
T-35-IN-3230	Equilon Enterprises LLC	5405 W. 9th St.	Zionsville	IN	46268
T-35-IN-3231	Sun Huntington	4691 N Meridian St	Huntington	IN	46750
T-35-IN-3232	TEPPCO Princeton	Highway 64 West	Oakland City	IN	47660
T-35-IN-3233	Center Terminal Co-Indianapolis	10833 East County Rd 300 North	Indianapolis	IN	46234
T-35-IN-3234	Lassus Bros Huntington	4413 North Meridian Rd	Huntington	IN	46750
T-35-IN-3235	CountryMark Jolietville	17710 Mule Barn	Westfield	IN	46074
T-35-IN-3236	CountryMark—Peru	Highway 24 West	Peru	IN	46970
T-35-IN-3237	CountryMark Switz City	State Road 54 East	Switz City	IN	47465
T-35-IN-3238	Transmontaigne Terminaling Inc.	10700 E County Rd 300N	Indianapolis (CL)	IN	46234
T-35-IN-3242	Safety-Kleen Oil Recovery Co.	601 Riley Road	East Chicago	IN	46312
T-35-IN-3243	Conrail Inc.-Avon Diesel Term	491 S. County Road 800 E.	Plainfield	IN	46168

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-35-IN-3244	Indiana Harbor Belt Railroad	2721—161st St.	Hammond	IN	46323
T-35-IN-3245	Conrail Inc.- Elkhart Terminal	2600 W. Lusher Rd	Elkhart	IN	46516
T-35-IN-3246	Transmontaigne—South Bend	20630 W. Ireland Rd.	South Bend	IN	46614
T-43-KS-3672	Phillips Pipeline Co.—Kansas City	2029 Fairfax Trafficway	Kansas City	KS	66115
T-48-KS-3651	Farmland Ind. Coffeyville	North & Linden Streets	Coffeyville	KS	67337
T-48-KS-3652	Kaneb Pipe Line Concordia	Route 1	Delphos	KS	67436
T-48-KS-3654	Frontier El Dorado Refining Company.	South Haverhill Road	El Dorado	KS	67042
T-48-KS-3655	Chase Pipeline Great Bend	Hwys 56 & 156 4 mi east of GB	Great Bend	KS	67530
T-48-KS-3656	Kaneb Pipe Line Hutchison	3300 East Avenue G	Hutchison	KS	67501
T-48-KS-3658	Sinclair Pipeline Kansas City	3401 Fairbanks Avenue	Kansas City	KS	66106
T-48-KS-3659	Williams Pipeline Kansas City	401 East Donovan Road	Kansas City	KS	66115
T-48-KS-3660	National Coop. McPherson	2000 South Main Street	McPherson	KS	67460
T-48-KS-3661	Williams Pipe Line Olathe	13745 W 135th St	Olathe	KS	66062
T-48-KS-3662	Farmland Coop. Phillipsburg	Hwy 183 N	Phillipsburg	KS	67661
T-48-KS-3663	S T Services Salina	2137 W Old Hwy 40	Salina	KS	67401
T-48-KS-3664	Chase Pipeline Scott City	Junction Highways 83 & 4	Scott City	KS	67871
T-48-KS-3665	Williams Pipe Line Topeka	US Hwy 75 RFD 1	Wakarusa	KS	66546
T-48-KS-3666	Center Terminal Co.—Wichita	7452 N Meridian	Valley Center	KS	67147
T-48-KS-3667	Williams Pipe Line Wathena	Rt. 2 Box 112	Wathena	KS	66090
T-48-KS-3669	Williams Pipe Line-Wichita	1100 East 21st Street	Wichita	KS	67214
T-48-KS-3670	Conoco Wichita	8001 Oak Knoll Road	Wichita	KS	67207
T-48-KS-3671	Phillips Pipeline Wichita	2400 East 37th Street North	Wichita	KS	67219
T-61-KY-3261	B P Oil Bromley	409 River Road	Bromley	KY	41016
T-61-KY-3262	MAPLLC Catlettsburg	Old St Rt 23	Catlettsburg	KY	41129
T-61-KY-3263	MAPLLC Covington	230 East 33rd Street	Covington	KY	41015
T-61-KY-3264	Transmontaigne—Greater Cincinnati.	700 River Road	Covington	KY	41017
T-61-KY-3265	Henderson Terminaling	2321 Old Geneva Road	Henderson	KY	42420
T-61-KY-3266	MAPLLC Lexington	1770 Old Frankfort Pike	Lexington	KY	40504
T-61-KY-3267	Chevron USA Lexington	1750 Old Frankfort Pike	Lexington	KY	40504
T-61-KY-3268	MAPLLC Louisville	4510 Algonquin Parkway	Louisville	KY	40211
T-61-KY-3269	B P Oil Louisville	1500 SW Parkway & Gibson Lane	Louisville	KY	40211
T-61-KY-3270	Chevron USA Louisville	4401 Bells Lane	Louisville	KY	40211
T-61-KY-3271	TransMontaigne—Louisville	4510 Bells Lane	Louisville	KY	40211
T-61-KY-3272	MAPLLC Oil Louisville	3920 Kramers Lane	Louisville	KY	40216
T-61-KY-3273	Sun Louisville	7800 Cane Run Road	Louisville	KY	40258
T-61-KY-3274	CITGO—Louisville	4724 Camp Ground Road	Louisville	KY	40216
T-61-KY-3276	MAPLLC Paducah	Highway 62 & MAPLLC Rd.	Paducah	KY	42003
T-61-KY-3278	TransMontaigne Terminal—Paducah.	233 Elizabeth St	Paducah	KY	42001
T-61-KY-3279	Transmontaigne-Henderson.	2633 Sunset Lane	Henderson	KY	42420
T-61-KY-3280	Southern States Cooperative	150 Coast Guard Lane	Owensboro	KY	42302
T-61-KY-3281	Somerset Refinery—Somerset	600 Monticello Street	Somerset	KY	42502
T-61-KY-3283	Transmontaigne—Owensboro	900 Pleasant Valley Road	Owensboro	KY	42302
T-61-KY-3284	Transmontaigne—Riverway	1350 South 3rd Street	Paducah	KY	42003
T-62-KY-2244	Transmontaigne—Paducah	2000 So. 4th St.	Paducah	KY	42003
T-62-KY-3285	Catlettsburg Refining LLC	8023 Crider Dr.	Catlettsburg	KY	41129
T-72-LA-2350	B P Oil Alliance		Alliance	LA	
T-72-LA-2351	Chevron USA Arcadia	Highway 80 East	Arcadia	LA	71001
T-72-LA-2353	Exxon Co USA Arcadia	Highway 80 East	Arcadia	LA	71001
T-72-LA-2355	International Tank Terminals, Inc.	5450 River Rd.	Avondale	LA	70094
T-72-LA-2357	Chevron USA Baton Rouge	1315 Mengel Road	East Baton Rouge	LA	70807
T-72-LA-2358	Exxon USA Baton Rouge	3329 Scenic Highway	Baton Rouge	LA	70805
T-72-LA-2359	Petroleum Fuel Baton Rouge	995 Earnest Wilson Road	Port Allen	LA	70767
T-72-LA-2360	Mobil Oil Chalmette	1700 Paris Rd Gate 50	Chalmette	LA	70043
T-72-LA-2361	Motiva Enterprises LLC	Louisiana Street	Covent	LA	70723
T-72-LA-2363	MAPLLC Oil Garyville	Highway 61	Garyville	LA	70051
T-72-LA-2364	IMTT—Gretna	1145 Fourth Street	Gretna	LA	70058
T-72-LA-2365	Motiva Enterprises LLC	143 Firehouse Dr.	Kenner	LA	70062
T-72-LA-2366	Valero Refining Co.—Louisiana	Highway 105 South	Krotz Springs	LA	70750
T-72-LA-2367	Calcasieu Lake Charles	West End of Tank Farm Road	Lake Charles	LA	70606
T-72-LA-2368	CITGO Lake Charles	Cities Serv Hwy & LA Hwy 108	Lake Charles	LA	70601
T-72-LA-2371	Murphy Oil USA Meraux	2501 East St Bernard Hwy	Meraux	LA	70075
T-72-LA-2372	Mobil Oil Morgan City	1000 Young's Road	Morgan City	LA	70380
T-72-LA-2373	Motiva Enterprises, LLC	Marrero, Barataria & River Rd.	Marrero	LA	70072
T-72-LA-2374	GATX Terminals Norco	1601 River Road	Norco	LA	70079
T-72-LA-2375	Chevron USA Opelousas	Highway 182 South	Opelousas	LA	70571
T-72-LA-2376	Placid Refining Co Port Allen	1940 Louisiana Hwy One North	Port Allen	LA	70767
T-72-LA-2377	International Tank Terminals, Inc.	11842 River Rd.	Saint Rose	LA	70087
T-72-LA-2378	Pennzoil Product Co Shreveport	3333 Midway PO Box 3099	Shreveport	LA	71133
T-72-LA-2381	Conoco Westlake	1980 Old Spanish Trail	Westlake	LA	70669

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-72-LA-2382	Paktank Corp Westwego	106 Bridge City Avenue	Bridge City	LA	70094
T-72-LA-2383	Phibro Marine Fuels	7168 Shrimpers Row	Dulac	LA	70353
T-72-LA-2384	Phibro Marine Fuel Gretna	1125 Fourth St	Gretna	LA	70058
T-72-LA-2386	Goldline Refinery	11499 Plant Road	Jennings	LA	70546
T-72-LA-2388	Calvmet Lubricants-Cotton Vall	U. S. Hwy 371 South	Cotton Valley	LA	71018
T-72-LA-2389	Calvmet Lubricants-Princeton	10234 Hwy 157	Princeton	LA	71067
T-72-LA-2390	ST Services Westwego	660 La Bauve Drive	Westwego	LA	70094
T-72-LA-2391	Petro-United Term Sunshine	1725 Highway 75	Sunshine	LA	70780
T-72-LA-2392	Petron, Inc.	R.T. 2, Box 238A	Jonesville	LA	71343
T-72-LA-2393	Sunshine Oil and Storage, Inc.	486 Highway 165	Monroe	LA	71202
T-04-MA-1151	L E Belcher Springfield	615 St James Ave	Springfield	MA	01109
T-04-MA-1152	Chelsea Terminal L/P	11 Broadway	Chelsea	MA	02150
T-04-MA-1153	Gulf Oil Ltd Partnership Chelsea	123 Eastern Ave.	Chelsea	MA	02150
T-04-MA-1154	Mobil Oil East Boston	467 Chelsea Street	East Boston	MA	02128
T-04-MA-1155	CITGO East Braintree	385 Quincy Ave	Braintree	MA	02184
T-04-MA-1156	Exxon USA Everett	52 Beacham Street	Everett	MA	02149
T-04-MA-1160	Irving Oil Terminals, Inc.	41 Lee Burbank Highway	Revere	MA	02151
T-04-MA-1161	Global Petroleum Corp.	222 Lee Burbank Hwy	Revere	MA	02151
T-04-MA-1162	Global Petroleum Revere	140 Lee Burbank Hwy	Revere	MA	02151
T-04-MA-1163	Cargill, Inc.	25 Derby Street	Salem	MA	01970
T-04-MA-1164	Cargill, Inc.	3 Coast Guard Road	Sandwich	MA	02563
T-04-MA-1165	Coastal Oil NE South Boston	900 E First Street	South Boston	MA	02128
T-04-MA-1166	Global Petroleum	160 Rocus St.	Springfield	MA	01101
T-04-MA-1168	Mobil Oil Springfield	145 Albany Street	Springfield	MA	01105
T-04-MA-1172	Global Petroleum Corp	30 Pine St.	Bedford	MA	02740
T-04-MA-1173	Harbor Fuel Oil Corp	15 Sparks Ave	Nantucket	MA	02554
T-04-MA-1175	R M Packer Co. Inc	Beach Rd.	Vineyard Haven	MA	02568
T-04-MA-1176	Sprague Energy Corp	728 Southern Artery	Quincy	MA	02169
T-04-MA-1177	Springfield Terminals Inc	86 Robbins Road	Springfield	MA	01101
T-04-MA-1179	Wyatt Energy Inc	1053 Page Blvd	Springfield	MA	01104
T-04-MA-1180	Sprague Energy—Quincy	740 Washington St.	Quincy	MA	02170
T-04-MA-1181	Ultramar Energy, Inc.	60 Hannon St.	Springfield	MA	01101
T-52-MD-1550	Amerada Hess—Baltimore	6200 Pennington Avenue	Baltimore	MD	21226
T-52-MD-1551	Amoco Oil Baltimore	801 East Ordance Rd	Curtis Bay	MD	21226
T-52-MD-1552	Tosco/Bayway—Baltimore	2155 Northbridge Ave	Baltimore	MD	21226
T-52-MD-1554	Petroleum Fuel & Terminal N	5101 Erdman Avenue	Baltimore	MD	21205
T-52-MD-1558	Shell Oil Co. West	3445 Fairfield Road	Baltimore	MD	21226
T-52-MD-1559	Petroleum Fuel and Terminal S	1622 South Clinton Street	Baltimore	MD	21224
T-52-MD-1560	S T Services Baltimore	1800 Frankfurst Avenue	Baltimore	MD	21226
T-52-MD-1561	Motiva Enterprises LLC	2400 Petrolia Ave.	Baltimore	MD	21226
T-52-MD-1562	Motiva Enterprises LLC	2201 Southport Ave.	Baltimore	MD	21226
T-52-MD-1563	Stratus Petroleum Baltimore	3100 Vera Street	Baltimore	MD	21226
T-52-MD-1565	S T Services—Piney Point	17877 Piney Point Road	Piney Point	MD	20674
T-52-MD-1567	Cato Oil Salisbury	1030 Marine Road	Salisbury	MD	21801
T-52-MD-1568	Support Terminals Operating LP	1134 Marine Road	Salisbury	MD	21801
T-52-MD-1570	S T Services Andrews AFB	c/o 89th Supply Squadron/LGSS	Andrews AFB	MD	20331
T-52-MD-1571	Delmarva Oil Co.	Fitzwater St. Extended	Salisbury	MD	21803
T-01-ME-1000	Mobil Oil Bangor	730 Lower Main Street	Bangor	ME	04401
T-01-ME-1001	Sprague Energy—South Portland	5 Central Avenue	South Portland	ME	04106
T-01-ME-1002	Coldbrook Energy, Inc.	809 Main Road No	Hampden	ME	04444
T-01-ME-1003	Sprague Energy So. Portland	59 Main Street	South Portland	ME	04106
T-01-ME-1004	Mobil Oil Portland	170 Lincoln Street	South Portland	ME	04106
T-01-ME-1006	Irving Oil Searsport	Station Ave	Searsport	ME	04974
T-01-ME-1008	Gulf Oil South Portland	175 Front St	South Portland	ME	04106
T-01-ME-1009	Cargill Inc.	One Clarks Road	South Portland	ME	04106
T-01-ME-1010	Motiva Enterprises LLC	102 Mechanic Street	South Portland	ME	04106
T-01-ME-1011	Webber Oil Bangor	700 Main St	Bangor	ME	04401
T-01-ME-1012	Webber Tanks Buckport	Drawer CC River Road	Bucksport	ME	04416
T-01-ME-1013	Webber Tanks Brewer	225 South Main	Brewer	ME	04412
T-38-MI-3001	Amoco Oil Cheyboygan	311 Coast Guard Drive	Cheyboygan	MI	49721
T-38-MI-3004	Amoco Oil Napoleon	6777 Brooklyn Road	Napoleon	MI	49261
T-38-MI-3005	Amoco Oil River Rouge	205 Marion Street	River Rouge	MI	48218
T-38-MI-3006	Amoco Oil Taylor	8625 South Inkster Rd.	Taylor	MI	48180
T-38-MI-3007	B P Oil Taylor	24801 Ecorse Rd	Taylor	MI	48180
T-38-MI-3008	CITGO Ferrysburg	524 Third Street	Ferrysburg	MI	49409
T-38-MI-3009	CITGO Jackson	2001 Morrill Rd	Jackson	MI	49201
T-38-MI-3010	CITGO Niles	2233 South Third	Niles	MI	49120
T-38-MI-3011	MAPLLC Niles	2140 South Third St.	Niles	MI	49120
T-38-MI-3012	Cousins Petroleum Taylor	7965 Holland	Taylor	MI	48180
T-38-MI-3013	Equilon Enterprises LLC	17806 North Shore Dr.	Ferrysburg	MI	49409
T-38-MI-3015	MAPLLC Detroit	12700 Toronto St.	Detroit	MI	48217
T-38-MI-3016	MAPLLC Flint	6065 North Dort Highway	Mt. Morris	MI	48458

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-38-MI-3017	MAPLLC Jackson	2090 Morrill Rd	Jackson	MI	49201
T-38-MI-3019	MAPLLC Oil Niles	2216 South Third Street	Niles	MI	49120
T-38-MI-3020	MAPLLC N. Muskegon	3005 Holton Rd	North Muskegon	MI	49445
T-38-MI-3022	Mobil Oil Flint	G5340 North Dort Highway	Flint	MI	48505
T-38-MI-3023	Mobil Oil Niles	2150 South Third Street	Niles	MI	49120
T-38-MI-3024	Mobil Oil Woodhaven	20755 West Road	Woodhaven	MI	48183
T-38-MI-3025	Equilon Enterprises LLC	700 Deacon	Detroit	MI	48217
T-38-MI-3027	Equilon Enterprises LLC	2103 Morrill Rd.	Jackson	MI	49201
T-38-MI-3028	Equilon Enterprises LLC	325.5 Fulkerson Rd.	Niles	MI	49120
T-38-MI-3029	Sun Company Inc—Owosso	4004 West Main Rd	Owosso	MI	48867
T-38-MI-3030	Sun River Rouge	500 South Dix Avenue	Detroit	MI	48217
T-38-MI-3031	MAPLLC—Alma	1925 East Superior St	Alma	MI	48802
T-38-MI-3032	MAPLLC-Bay City	1806 Marquette	Bay City	MI	48706
T-38-MI-3033	MAPLLC- Lansing	6300 West Grand River	Lansing	MI	48906
T-38-MI-3034	MAPLLC-Romulus	28001 Citrin Drive	Romulus	MI	48174
T-38-MI-3035	MAPLLC- Traverse City	13544 W Bayshore Dr	Traverse City	MI	49684
T-38-MI-3036	MAPLLC-Bay City	5011 Wilder Road	Bay City	MI	48706
T-38-MI-3037	Leemon Oil Co., Inc.	29120 Wick Road	Romulus	MI	48174
T-38-MI-3039	Delta Fuels Of Michigan	40600 Grand River	Novi	MI	48374
T-38-MI-3041	Quality Oil Company	630 Ottawa Avenue	Holland	MI	49423
T-38-MI-3042	MAPLLC Detroit	22970 Ecorse Road	Taylor	MI	48180
T-38-MI-3043	Equilon Enterprises LLC	12451 Old US 27	Marshall	MI	49068
T-38-MI-3044	Clark Refining and Marketing	8000 S Beech Daly Rd	Taylor	MI	48180
T-41-MN-3400	Amoco Oil Moorhead	1101 Southeast Main	Moorhead	MN	56560
T-41-MN-3401	Amoco Oil Sauk Centre	1 Mile W on County Rd 72	Sauk Centre	MN	56378
T-41-MN-3402	Amoco Oil Spring Valley	2 Miles East of U S 16	Spring Valley	MN	55975
T-41-MN-3403	Amoco Oil Twin Cities	2288 West County Road C	Roseville	MN	55113
T-41-MN-3404	MAPLLC Refinery St. Paul	100 West Third Street	St. Paul Park	MN	55071
T-41-MN-3405	Conoco Wrenshall	10 Broadway Street	Wrenshall	MN	55797
T-41-MN-3406	Erickson Petroleum Newport	50 21st St	Newport	MN	55055
T-41-MN-3407	Koch Petroleum Group-Pine Bend	Junction Highways 52 & 55	St. Paul	MN	55164
T-41-MN-3410	Murphy Oil-Esko	5746 Old Hwy 61	Esko	MN	55733
T-41-MN-3412	Williams Pipe Line Alexandria	709 3rd Ave W	Alexandria	MN	56308
T-41-MN-3413	Williams Pipe Line Mankato	Rural Route Nine	Mankato	MN	56001
T-41-MN-3414	Williams Pipe Line Marshall	Route Four	Marshall	MN	56258
T-41-MN-3415	Williams Pipe Line Roseville	2451 W County Rd C	Roseville	MN	55113
T-41-MN-3416	Williams Pipe Line Rochester	1331 Hwy 42 SE	Eyota	MN	55934
T-41-MN-3418	ST Services Winona	1020 E. 2nd St.	Winona	MN	55987
T-43-MO-3700	Conoco Belle	Highway 28 South	Belle	MO	65013
T-43-MO-3701	JD Streett St Louis	3800 S. 1st St.	St Louis	MO	63118
T-43-MO-3702	Texon LP	19905 St. Hwy. 114	Dexter	MO	63841
T-43-MO-3703	Ayers Oil Company—Canton	Fourth & Grant	Canton	MO	63435
T-43-MO-3704	Transmontaigne Terminaling Inc.	1400 S Giboney	Cape Girardeau	MO	63701
T-43-MO-3705	TEPPCO Cape Girardeau	Rural Route 2, Hwy N	Scott City	MO	63780
T-43-MO-3706	Sinclair Pipeline Carrollton	S Main & 24 Business Route	Carrollton	MO	64633
T-43-MO-3707	Williams Pipeline Carthage	18195 County Rd. 138	Jasper	MO	64755
T-43-MO-3708	Williams Pipeline Columbia	5531 South Hwy 63	Columbia	MO	65201
T-43-MO-3709	Phillips 66 Jefferson City	2116 Idlewood	Jefferson City	MO	65109
T-43-MO-3710	Conoco Kansas City	6699 NW Riverpark Drive	Parkville	MO	64152
T-43-MO-3712	Sinclair Pipeline Mexico	Highway 54 East	Mexico	MO	65265
T-43-MO-3713	Conoco Mount Vernon	Rt. 2 Box 115	Mount Vernon	MO	65712
T-43-MO-3714	Artco North	3854 South 1st. St.	St. Louis	MO	63118
T-43-MO-3715	Sinclair Pipeline New Madrid	211 Water Street	New Madrid	MO	63869
T-43-MO-3716	Williams Pipeline Palmyra	6 mi North on Highway 61	Palmyra	MO	63461
T-43-MO-3718	Williams Pipeline Springfield	3132 S. State Hwy MM	Brookline	MO	65619
T-43-MO-3719	J D Street River Plant	1 River Road	St Louis	MO	63125
T-43-MO-3720	Amoco Oil Sugar Creek	1000 North Sterling	Sugar Creek	MO	64054
T-43-MO-3721	Williams Pipeline St Charles	4695 South Service Road	St Peter	MO	63376
T-43-MO-3722	Ogden Aviation Services	10735 Lambert International	St. Louis	MO	63145
T-43-MO-3723	Ogden Aviation Service	217 Burn	Kansas City	MO	64153
T-43-MO-3725	Equilon Enterprises LLC	239 E. Prairie St.	St. Louis	MO	63147
T-43-MO-3726	Equilon Enterprises LLC	4070 South First Street	St Louis	MO	63118
T-43-MO-3727	Transmontaign Terminaling Inc.	15376 Hwy 96	Mount Vernon	MO	65712
T-43-MO-3728	Sinclair Oil Corp—Carrollton	RR4, Box 48	Carrollton	MO	64633
T-64-MS-2400	Munro Petroleum Biloxi	540 Bayview Avenue	Biloxi	MS	39533
T-64-MS-2401	Chevron USA Collins	Old Highway 49 South	Collins	MS	39428
T-64-MS-2402	Exxon USA Collins	31 Kola Road	Collins	MS	39428
T-64-MS-2403	B P Oil Collins	First Avenue South	Collins	MS	39428
T-64-MS-2404	Motiva Enterprises LLC	49 So. & Kola Rd.	Collins	MS	39428
T-64-MS-2405	TransMontaigne Terminaling, Inc.	First Avenue South	Collins	MS	39428
T-64-MS-2406	Greenville Republic Terminal	310 Walthall Street	Greenville	MS	38701
T-64-MS-2408	Transmontaigne Terminaling— Greenville.	208 Short Clay Street	Greenville	MS	38701

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-64-MS-2409	Southland Oil Lumberton	5 Mi North of Lumberton Hwy 11	Lumberton	MS	39455
T-64-MS-2410	Amoco Oil Meridan	181 65th Avenue	Meridian	MS	39307
T-64-MS-2411	MEG, Inc.	101 65th Avenue	Meridian	MS	39301
T-64-MS-2412	CITGO Meridian	180 65th Avenue	Meridian	MS	39305
T-64-MS-2413	B P Oil Meridian	1401 65th Ave S	Meridian	MS	39307
T-64-MS-2414	Motiva Enterprises LLC	6540 N. Frontage Rd.	Meridian	MS	39301
T-64-MS-2415	TransMontaigne Terminaling, Inc.	1401 65th Ave S	Meridian	MS	39307
T-64-MS-2416	Chevron USA Pascagoula	Industrial Road State Hwy 611	Pascagoula	MS	39568
T-64-MS-2417	TransMontaigne Terminaling, Inc.	US Hwy. 11	Purvis	MS	39475
T-64-MS-2418	Southland Oil Sandersville	2 mi N on Hwy 11 PO Drawer A	Sandersville	MS	39477
T-64-MS-2419	CITGO Vicksburg	1585 Haining Rd	Vicksburg	MS	39180
T-72-MS-2421	Delta Terminal—Greenville	2181 Harbor Front	Greenville	MS	38701
T-72-MS-2422	Meiko Terminal	20096 Norm Connell Drive	Aberdeen	MS	39730
T-81-MT-4000	Conoco Billings	23rd & Fourth Ave South	Billings	MT	59107
T-81-MT-4001	Conoco Bozeman	316 West Griffin Drive	Bozeman	MT	59715
T-81-MT-4002	Conoco Great Falls	1401 52nd N	Great Falls	MT	59405
T-81-MT-4003	Conoco Helena	3180 Highway 12 East	Helena	MT	59601
T-81-MT-4004	Conoco Missoula	3330 Raser Drive	Missoula	MT	59802
T-81-MT-4005	CENEX Laurel	P O Box 909	Laurel	MT	59044
T-81-MT-4006	CENEX Glendive	P O Box 240	Glendive	MT	59330
T-81-MT-4007	Exxon USA Billings	Lockwood Frontage Rd	Billings	MT	59101
T-81-MT-4008	Exxon USA Bozeman	220 West Griffin Drive	Bozeman	MT	59715
T-81-MT-4009	Exxon USA Helena	3120 Highway 12 East	Helena	MT	59601
T-81-MT-4010	Exxon USA Missoula	3350 Raser Drive	Missoula	MT	59801
T-81-MT-4011	Montana Refining Great Falls	1900 10th Street	Great Falls	MT	59403
T-56-NC-2000	Exxon Corporation	6801 Freedom Dr	Charlotte	NC	28208
T-56-NC-2001	CITGO Petroleum Corp.	7600 Mount Holly Road	Charlotte	NC	28214
T-56-NC-2002	MAPLLC	8035 Mt. Holly Rd.	Charlotte	NC	28214
T-56-NC-2003	Crown Central Petroleum-Charlotte	7720 Mount Holly Rd.	Charlotte	NC	28214
T-56-NC-2004	Phillips Pipeline Co.	502 Tom Sadler Rd.	Charlotte	NC	28130
T-56-NC-2005	Motiva Enterprises LLC	6851 Freedom Dr.	Charlotte	NC	28214
T-56-NC-2006	Southern Facilities	7145 Mount Holly Road	Charlotte	NC	28214
T-56-NC-2007	Motiva Enterprises LLC	410 Tom Sadler Rd.	Charlotte	NC	28130
T-56-NC-2008	Southeast Terminal	7401 Old Mount Holly Road	Charlotte	NC	28214
T-56-NC-2009	Motiva Enterprises LLC	992 Shaw Mill Road	Fayetteville	NC	28303
T-56-NC-2010	TransMontaigne	6907B West Market Street	Greensboro	NC	27409
T-56-NC-2011	Williams Group 2	7109 West Market Street	Greensboro	NC	27409
T-56-NC-2012	MAPLLC Greensboro	6311 Burnt Poplar Road	Greensboro	NC	27409
T-56-NC-2013	Triad Terminal II	2101 West Oak St.	Selma	NC	27576
T-56-NC-2014	Exxon USA Greensboro	6907 West Market Street	Greensboro	NC	27409
T-56-NC-2015	Triad Terminal	6376 Burnt Poplar Rd	Greensboro	NC	27409
T-56-NC-2016	Atlantic Aero, Inc.	6423 Bryan Blvd.	Greensboro	NC	27425
T-56-NC-2018	Triad Terminal Selma	2200 West Oak St.	Selma	NC	27576
T-56-NC-2019	Apex Oil	6900 West Market St	Greensboro	NC	27409
T-56-NC-2020	Southern Facilities	115 Chimney Rock Road	Greensboro	NC	27409
T-56-NC-2021	Motiva Enterprises LLC	101 S. Chimney Rock Rd.	Greensboro	NC	27419
T-56-NC-2022	TransMontaigne	6801 West Market Street	Greensboro	NC	27409
T-56-NC-2023	TransMontaigne	7615 Old Mount Holly Road	Charlotte	NC	28214
T-56-NC-2024	Williams Energy	7924 Mt. Holly Rd	Charlotte	NC	28214
T-56-NC-2025	Crown	2999 W. Oak St.	Selma	NC	27576
T-56-NC-2026	Valero Marketing	7325 Old Mount Holly Rd.	Charlotte	NC	28214
T-56-NC-2027	Motiva Enterprises LLC	2232 Ten-Ten. Road	Apex	NC	27502
T-56-NC-2028	TransMontaigne	West State Road 1929	Selma	NC	27576
T-56-NC-2029	B P Oil	Buffalo Road	Selma	NC	27576
T-56-NC-2030	CITGO	State Hwy 1003 and Oak St Ext	Selma	NC	27576
T-56-NC-2031	Exxon USA	2555 West Oak Street	Selma	NC	27576
T-56-NC-2032	Airport Group International, Inc.	6502 Old Dowd Rd.	Charlotte	NC	28219
T-56-NC-2033	Valero Marketing	4383 Buffalo Road	Selma	NC	27576
T-56-NC-2034	Phillips	4086 Buffalo Road	Selma	NC	27576
T-56-NC-2036	Southern Facilities	4414 Buffalo Road	Selma	NC	27576
T-56-NC-2037	Amerada Hess	1312 S Front St.	Wilmington	NC	28401
T-56-NC-2039	CTI of North Carolina Inc	1002 S. Front Street	Wilmington	NC	28402
T-56-NC-2041	Koch Petroleum	3325 River Road	Wilmington	NC	28412
T-56-NC-2042	Koch Petroleum	3334 River Rd.	Wilmington	NC	28412
T-56-NC-2043	Apex Oil	3314 River Road	Wilmington	NC	28403
T-45-ND-3500	Williams Pipeline Grand Forks	3930 Gateway Drive	Grand Forks	ND	58203
T-45-ND-3501	Williams Pipe Line Fargo	902 Main Avenue East	West Fargo	ND	58078
T-45-ND-3502	Amoco Oil Jamestown	10 Mi West on I-94 Stand Spur	Jamestown	ND	58401
T-45-ND-3503	Kaneb Pipe Line Jamestown	3790 Hwy 281 SE	Jamestown	ND	58401
T-45-ND-3504	CENEX Minot	700 Second Street SW	Minot	ND	58701
T-45-ND-3505	Amoco Oil Mandan		Mandan	ND	58554
T-47-NE-3600	Kaneb Pipe Line Columbus	Highway 30	Columbus	NE	68601

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-47-NE-3601	Kaneb Pipe Line Geneva	U S Highway 81	Geneva	NE	68361
T-47-NE-3602	Williams Pipe Line Doniphan	12275 South US Hwy 281	Doniphan	NE	68832
T-47-NE-3603	Conoco Lincoln Products	Route 1	Roca	NE	68430
T-47-NE-3605	Williams Pipe Line Lincoln	2000 Saltillo Road	Roca	NE	68430
T-47-NE-3606	Kaneb Pipe Line Norfolk	Highway 81	Norfolk	NE	68701
T-47-NE-3607	Kaneb Pipe Line North Platt	Rural Route Four	North Platte	NE	69101
T-47-NE-3608	Williams Pipe Line Omaha	Seventh & Yates Street	Omaha	NE	68103
T-47-NE-3609	Conoco Pipeline Sidney	Rural Route 1	Sidney	NE	69162
T-47-NE-3610	Kaneb Pipe Line Osceola	Rural Route 1	Osceola	NE	68651
T-02-NH-1050	Sprague Energy Newington	Spaulding Tpk. River Rd.	Newington	NH	03801
T-02-NH-1054	Sprague Energy Portsmouth	Gosseling Rd.	Portsmouth	NH	03801
T-02-NH-1056	Irving Oil Corp. Mainway	50 Preble Way	Portsmouth	NH	03801
T-04-NH-1057	Sprague Energy Newington	Avery Lane	Newington	NH	03801
T-22-NJ-1500	Amerada Hess—Bayonne	Lower Hook Road	Bayonne	NJ	07002
T-22-NJ-1501	Coastal Oil Bayonne	Foot of East Fifth Street	Bayonne	NJ	07002
T-22-NJ-1502	Amerada Hess—Newark Delanny	1111 Delanny St.	Newark	NJ	07105
T-22-NJ-1505	Amerada Hess—Bogota	238 West Fort Lee Road	Bogota	NJ	07503
T-22-NJ-1506	Amoco Oil Carteret Terminal	760 Roosevelt Avenue	Carteret	NJ	07008
T-22-NJ-1508	Amerada Hess—Edgewater	615 River Road	Edgewater	NJ	07020
T-22-NJ-1511	Koch Petroleum Group-Gloucester	Across Delaware River from PA	Gloucester City	NJ	08030
T-22-NJ-1512	Tosco Tremley PT	Foot of Southwood Ave	Linden	NJ	07036
T-22-NJ-1513	CITGO Linden	4801 South Wood Avenue	Linden	NJ	07036
T-22-NJ-1514	Bayway Refining Co	1100 US Highway One	Linden	NJ	07036
T-22-NJ-1515	Gulf Oil Linden	2600 Marshes Dock Road	Linden	NJ	07036
T-22-NJ-1516	Mobil Oil Linden	South Wood Avenue	Linden	NJ	07036
T-22-NJ-1518	Amerada Hess—Newark Doremus	148-182 Doremus Ave.	Newark	NJ	07105
T-22-NJ-1519	B P Oil Newark	Building 350 Coastel St	Port Newark	NJ	07114
T-22-NJ-1520	Getty Terminal Newark	86 Doremus Rd	Newark	NJ	07105
T-22-NJ-1521	Motiva Enterprises LLC	909 Delaney Street	Newark	NJ	07105
T-22-NJ-1522	Stratus Petroleum Newark	678 Doremus Ave	Newark	NJ	07105
T-22-NJ-1523	Sun Newark	436 Doremus Avenue	Newark	NJ	07105
T-22-NJ-1524	B P Oil Paulsboro	303 Mantua Avenue	Paulsboro	NJ	08066
T-22-NJ-1525	GATX Terminals Paulsboro	3rd St & Billingsport Road	Paulsboro	NJ	08066
T-22-NJ-1526	Valero Refining Company—New Jersey.	800 Billingsport	Paulsboro	NJ	08066
T-22-NJ-1528	Amerada Hess—Pennsauken	One Derousse Avenue	Pennsauken	NJ	08110
T-22-NJ-1530	Amerada Hess—Perth Amboy	State Street	Perth Amboy	NJ	08861
T-22-NJ-1531	Chevron USA Perth Amboy	1200 State St	Perth Amboy	NJ	08861
T-22-NJ-1533	CITGO Petty's Island	Route 36 & Delaware River	Pennsauken	NJ	08110
T-22-NJ-1534	Sun Piscataway	1028 Stelton Road	Piscataway	NJ	08854
T-22-NJ-1535	Amerada Hess—Port Reading	Cliff Road	Port Reading	NJ	07064
T-22-NJ-1536	Amerada Hess—Secaucus	35 Meadowlands Parkway	Secaucus	NJ	07094
T-22-NJ-1537	Motiva Enterprises, LLC—Sewaren	115 State Street	Sewaren	NJ	07077
T-22-NJ-1538	Motiva Enterprises LLC—Sewaren	111 State Street	Sewaren	NJ	07077
T-22-NJ-1540	Gulf Oil Thorofare	358 Kings Highway	Thorofare	NJ	08086
T-22-NJ-1542	Mobil Oil Trenton	2785 Lambertson Road	Trenton	NJ	08611
T-22-NJ-1544	Coastal Eagle Point Westville	U S Route 130	South Westville	NJ	08093
T-22-NJ-1545	Amerada Hess—Woodbridge	Smith Street & Convery Blvd.	Perth Amboy	NJ	08861
T-22-NJ-1547	Duck Island Terminal Inc.	1463 Lambertson Road	Trenton	NJ	08677
T-22-NJ-1548	SLF, Inc. T/a Consumers Oil	1473 Lambertson Road	Trenton	NJ	08611
T-85-NM-4251	Chevron USA Albuquerque	3200 Broadway SE within city	Albuquerque	NM	87105
T-85-NM-4252	Conoco Albuquerque	4036 Broadway Southeast	Albuquerque	NM	87105
T-85-NM-4253	Diamond Albuquerque	6348 State Road 303 SW	Albuquerque	NM	87105
T-85-NM-4254	Phillips 66 Albuquerque	6356 State Road 47 S W	Albuquerque	NM	87105
T-85-NM-4255	Giant Industries—Albuquerque	3209 Broadway Southeast	Albuquerque	NM	87105
T-85-NM-4256	Navajo Refining Artesia	US Highway 82, Drawer 159	Artesia	NM	88210
T-85-NM-4257	Giant Refining—Bloomfield	# 50 County Road 4990	Bloomfield	NM	87413
T-85-NM-4258	Giant Refining—Ciniza	I-40 Exit 39	Jamestown	NM	87347
T-85-NM-4259	S T Services Alamogordo	6026 Hwy 54 South	Alamogordo	NM	88310
T-86-NM-4250	Navajo Refining Co.	170 Rd. 4980	Bloomfield	NM	87413
T-86-NM-4261	USA Petroleum Southwest Terminal.	U.S. 10 & NM St. Rd. 29	Road Forks	NM	88045
T-86-NM-4262	Navajo Refining Company	1001 E. Martinez	Moriarty	NM	87035
T-88-NV-4350	Calnev Pipe Line Las Vegas	5049 N Sloan	Las Vegas	NV	89115
T-88-NV-4353	Kinder Morgan—Sparks	301 Nugget Avenue	Sparks	NV	89431
T-88-NV-4354	Shore Terminals LLC	525 Nugget Avenue	Sparks	NV	89431
T-88-NV-4358	Berry-Hinckley Terminal, Inc.	275 Nugget Ave	Sparks	NV	89431
T-88-NV-4359	Rebel Oil Las Vegas	5054 N Sloane Lane	Las Vegas	NV	89115
T-88-NV-4360	Berry Hinckley Terminal-Sparks	147 South Stanford Way	Sparks	NV	89431
T-11-NY-1300	Carbo Industries, Inc.	555 Doughty Blvd.	Inwood	NY	11696
T-11-NY-1301	Amoco Oil Brooklyn	125 Apollo St.	Brooklyn	NY	11222
T-11-NY-1302	Metro Terminals Brooklyn	498 Kingsland Avenue	Brooklyn	NY	11222

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-11-NY-1303	Tosco Pipeline Plainview	150 Fairchild Avenue	Plainview	NY	11803
T-11-NY-1304	Motiva Enterprises LLC	25 Paidge Ave.	Brooklyn	NY	11222
T-11-NY-1305	Mobil Oil Inwood	464 Doughty Blvd	Inwood	NY	11696
T-11-NY-1306	Lefferts Oil Terminal Inc.	31-70 College Point Blvd	Flushing	NY	11354
T-11-NY-1307	Castle Astoria	500 Mamaroneck Avenue	Harrison	NY	10528
T-11-NY-1308	Amerada Hess—Brooklyn	722 Court Street	Brooklyn	NY	11231
T-11-NY-1309	Mobil Oil Glenwood Landing	Shore & Glenwood Rd	Glenwood Landing	NY	11547
T-11-NY-1310	Tosco Pipeline Holtsville	586 Union Ave	Holtsville	NY	11742
T-11-NY-1311	Getty Terminal-Long Island	30-23 Greenpoint Ave.	Long Island City	NY	11101
T-11-NY-1312	Motiva Enterprises LLC	74 East Avenue	Lawrence	NY	11559
T-11-NY-1313	Bayside Fuel Oil Depot Corp.	One North 12th Street	Brooklyn	NY	11211
T-11-NY-1315	RAD Operating Oceanside	7 Hampton Road	Oceanside	NY	11572
T-11-NY-1316	Bayside Fuel Oil Depot Corp	510 Sackett Street	Brooklyn	NY	11214
T-11-NY-1317	Lewis Oil Port Washington	65 Shore Road	Port Washington	NY	11050
T-11-NY-1318	Tosco—Riverhead	212 Sound Shore Road	Riverhead	NY	11901
T-11-NY-1319	Tosco Pipeline East Setauket	19 Bell Meade Road	East Setauket	NY	11733
T-11-NY-1323	Ditmas Oil Associates Inc	364 Maspeth Avenue	Brooklyn	NY	11211
T-11-NY-1324	Carbo Industries Inc	1 Bay Blvd	Lawrence	NY	11559
T-11-NY-1325	Bayside Fuel Oil Corp.	1100 Grand Street	Brooklyn	NY	11211
T-11-NY-1326	Bayside Fuel Oil Depot	1776 Shore Parkway	Brooklyn	NY	11214
T-11-NY-1329	Bay Terminals of Rockaway, Inc.	75-02 Astel Blvd.	Rockaway	NY	11692
T-11-NY-1330	Lefferts Oil Terminal	Bldg. 140 JFK Inter'l Airport	Jamaica	NY	11430
T-11-NY-1331	A. R. Fuels, Inc.	2125 Mill Ave.	Brooklyn	NY	11234
T-11-NY-1332	Bayside Fuel Oil Corporation	537 Smith Street	Brooklyn	NY	11231
T-11-NY-1333	The Energy Conservation Group LLC.	DBA Skaggs-Walsh	College Point	NY	11356
T-11-NY-1460	Mobil Oil Cold Spring Harbor	95 Shore Road	Cold Spring	NY	11724
T-13-NY-1352	Castle Port Morris Terminals	290 Locust Avenue	Bronx	NY	10454
T-13-NY-1353	Stuyvesant Fuel Service-Bronx	1040 East 149th Street	Bronx	NY	10455
T-13-NY-1354	Getty Terminal Bronx	4301 Boston Post Road	Bronx	NY	10466
T-13-NY-1355	Mobil Oil Port Mobil	4101 Arthur Kill Rd	Staten Island	NY	10309
T-13-NY-1356	Amoco Oil Mount Vernon	40 Canal St.	Mount Vernon	NY	10550
T-13-NY-1357	Fred M Schildwachter & Sons	1400 Ferris Place	Bronx	NY	10461
T-13-NY-1358	Meenan Peekskill	Roa Hook rd	Peekskill	NY	10566
T-13-NY-1359	Panco Equipment Corp	Main St Box 659	Stoney Point	NY	10980
T-13-NY-1360	Westmore Fuel Co Inc	2 Purdy Ave	Port Chester	NY	10573
T-13-NY-1361	West Vernon Petroleum Corp	701 S Columbus Ave	Mount Vernon	NY	10550
T-13-NY-1362	GATX Staten Island	500 Western Ave	Staten Island	NY	10302
T-13-NY-1363	A Tarricone Yonkers	91 Alexander St.	Yonkers	NY	10701
T-13-NY-1364	Commander Oil Corporation	240 East Shore Road	Great Neck	NY	11022
T-13-NY-1365	Castle North Terminals, Inc.	11 River Street	Sleepy Hollow	NY	10591
T-14-NY-1400	Agway Petroleum Albany	184 Port Rd	Albany	NY	12202
T-14-NY-1401	Cibro Petroleum Prod Albany	Port of Albany	Albany	NY	12202
T-14-NY-1402	Citgo Petroleum Corp Glenmont	495 River Road	Glenmont	NY	12077
T-14-NY-1403	Mobil Oil Albany	50 Church Street	Albany	NY	12202
T-14-NY-1404	Petroleum Fuel Albany	54 Riverside Avenue	Rensselaer	NY	12144
T-14-NY-1405	Sears Petroleum & Transport Co	Route 144 552 River Road	Glenmont	NY	12077
T-14-NY-1406	Stratus Petroleum Green Isle	1 Osgood Ave.	Green Island	NY	12183
T-14-NY-1409	Agway Petroleum Corp. Milton	Sands Ave.	Milton	NY	12547
T-14-NY-1411	Coastal Oil Newburgh	Hudson River	Newburgh	NY	12551
T-14-NY-1413	Mobil Oil Newburgh	20 River Road	Newburgh	NY	12551
T-14-NY-1414	Sun Refining New Windsor	49 River Road	New Windsor	NY	12553
T-14-NY-1415	Amerada Hess—Rensselaer	River Road E Greenbush	Rensselaer	NY	12144
T-14-NY-1416	Bray Terminals Rensselaer	50 Riverside Drive	Rensselaer	NY	12144
T-14-NY-1417	Sprague Energy Rensselaer	Riverside Avenue, PO Box 215	Rensselaer	NY	12144
T-14-NY-1418	Getty Terminal Rensselaer	49 Riverside Avenue	Rensselaer	NY	12144
T-14-NY-1420	TransMontaigne Terminaling, Inc.	58 Riverside Avenue	Rensselaer	NY	12144
T-14-NY-1421	Amerada Hess—Roseton	590 River Road	Newburgh	NY	12550
T-14-NY-1422	Effron Fuel Oil Co	154 Garden St	Poughkeepsie	NY	12601
T-16-NY-1450	Stratus Petro Baldwinsville	7431 Hillside Road	Baldwinsville	NY	13027
T-16-NY-1451	Mobil Oil Binghamton	3301 Old Vestal Rd	Vestal	NY	13850
T-16-NY-1452	Amerada Hess—Rochester—Cairn	22 Cairn St.	Rochester	NY	14611
T-16-NY-1453	Coastal Oil New York, Inc.	3121 Shippers Road	Vestal	NY	13851
T-16-NY-1454	CITGO Vestal	3212 Old Vestal Road	Vestal	NY	13850
T-16-NY-1455	Sun Binghamton	4324 Watson Boulevard	Johnson City	NY	13790
T-16-NY-1456	Agway Petroleum Corp. Brewerton	Rt. 37 River Road	Brewerton	NY	13029
T-16-NY-1457	United Refining Tonawanda	4545 River Road	Tonawanda	NY	14150
T-16-NY-1458	Mobil Oil Buffalo	625 Elk St.	Buffalo	NY	14210
T-16-NY-1459	Noco Energy Corp	700 Grand Island Blvd	Tonawanda	NY	14151
T-16-NY-1461	IPT, LLC, INC.	End of Riverside Extension	Rensselaer	NY	12144
T-16-NY-1462	Agway Petroleum Corp. Geneva	West River Road	Geneva	NY	14456
T-16-NY-1463	Agway Petroleum Corp. Marcy	9586 River Road	Marcy	NY	13403

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-16-NY-1464	Amerada Hess—Marcy	9570 River Rd.	Marcy	NY	13403
T-16-NY-1465	Bray Terminals Marcy	9660 River Rd	Marcy	NY	13403
T-16-NY-1468	Agway Petroleum Rochester	754 Brooks Ave.	Rochester	NY	14619
T-16-NY-1469	Amerada Hess—Rochester Lyell	1975 Lyell Avenue	Rochester	NY	14606
T-16-NY-1470	Griffith Oil-Rochester	335 McKee Rd	Rochester	NY	14611
T-16-NY-1471	Griffith Oil Co., Inc. Big Flats	3351 Rt. 352	Big Flats	NY	14814
T-16-NY-1472	Mobil Oil Rochester	675 Brooks Avenue	Rochester	NY	14619
T-16-NY-1473	Sun Rochester	1840 Lyell Avenue	Rochester	NY	14606
T-16-NY-1474	United Refining Rochester	1075 Chili Avenue	Rochester	NY	14624
T-16-NY-1476	Amerada Hess—Warners	6700 Herman Rd.	Warners	NY	13164
T-16-NY-1480	Mobil Oil Syracuse	502 Solar Street	Syracuse	NY	13261
T-16-NY-1482	Sun Syracuse	540 Solar Street	Syracuse	NY	13204
T-16-NY-1484	Sun Tonawanda	3733 River Road	Tonawanda	NY	14150
T-16-NY-1486	Mobil Oil Utica	37 Wurz Avenue	Utica	NY	13502
T-16-NY-1487	Sears Oil Marcy Terminal	9788 River Road	Marcy	NY	13403
T-16-NY-1488	Agway Petroleum Corp. Vestal	3113 Shippers Rd.	Vestal	NY	13851
T-16-NY-1489	Amerada Hess Corp. Vestal	440 Prentice Road	Vestal	NY	13850
T-16-NY-1492	Alaskan Oil Co.—Baldwinsville	7437 Hillside Road	Baldwinsville	NY	13027
T-16-NY-1493	Mohawk Valley Oil Co. Marcy	9678 River Road	Marcy	NY	13403
T-16-NY-1494	Alaskan Oil- Rochester	1935 Lyell Avenue	Rochester	NY	14606
T-16-NY-1495	Kingston Oil Supply-Port Ewen	North Broadway	Port Ewen	NY	12166
T-16-NY-1496	Kingston Oil Supply- Catskill	End Lower Main St.	Catskill	NY	12414
T-16-NY-1497	Walter Davenport & Son	625 Sawkill Rd.	Kingston	NY	12401
T-16-NY-1498	Riverstar—Highland	42 River Rd.	Highland	NY	12528
T-16-NY-1499	Warex Terminals Corp-Newburgh	1 South Water Street	Newburgh	NY	12550
T-31-OH-3100	MAPLLC Cincinnati	4015 River Road	Cincinnati	OH	45204
T-31-OH-3101	MAPLLC Columbus	3855 Fisher Road	Columbus	OH	43228
T-31-OH-3102	MAPLLC Heath	840 Heath Road	Heath	OH	43056
T-31-OH-3103	MAPLLC Marietta	Old Rt 7 & Moores Junction	Marietta	OH	45750
T-31-OH-3104	B P Oil Cincinnati	930 Tennessee Avenue	Cincinnati	OH	45229
T-31-OH-3105	B P Oil Columbus	303 North Wilson Road	Columbus	OH	43204
T-31-OH-3106	B P Oil Dayton	621 Brandt Pike	Dayton	OH	45404
T-31-OH-3107	Equilon Enterprises LLC	4033 Fisher Road	Columbus	OH	43228
T-31-OH-3108	B P Oil Sciotoville	106 Harding Ave	Portsmouth	OH	45662
T-31-OH-3110	ITAPCO, Inc., Marietta	RT 7 & Milerun Road	Marietta	OH	45750
T-31-OH-3111	Midwest Terminal Columbus	3866 Fisher Rd	Columbus	OH	43228
T-31-OH-3112	MAPLLC Columbus	4125 Fisher Rd	Columbus	OH	43228
T-31-OH-3113	MAPLLC Lebanon	999 West State Rt.122	Lebanon	OH	45036
T-31-OH-3114	Equilon Enterprises LLC	3651 Fisher Rd.	Columbus	OH	43228
T-31-OH-3115	Equilon Enterprises LLC	801 Brandt Pike	Dayton	OH	45404
T-31-OH-3116	Sun Columbus	3499 West Broad Street	Columbus	OH	43204
T-31-OH-3117	Sun Dayton	1708 Farr Drive	Dayton	OH	45404
T-31-OH-3118	TEPPCO Lebanon	2700 Hart Road	Lebanon	OH	45036
T-31-OH-3119	TEPPCO	3590 Yankee Rd.	Middletown	OH	45043
T-31-OH-3120	CITGO—Dublin	6433 Cosgray Road	Dublin	OH	43016
T-31-OH-3121	CITGO—Dayton	1800 Farr Drive	Dayton	OH	45404
T-31-OH-3122	Boswell Oil Company	5 W 4th St Floor 2500	Cincinnati	OH	45202
T-34-OH-3140	MAPLLC Refinery Canton	2408 Gamfrinus Rd SW	Canton	OH	44706
T-34-OH-3142	Aurora Terminal & Trans	1519 S Chillicothe Rd	Aurora	OH	44202
T-34-OH-3143	B P Oil Canton	807 Hartford Southeast	Canton	OH	44707
T-34-OH-3144	B P Oil Cleveland	4850 E 49th Street	Cuyahoga Hts	OH	44125
T-34-OH-3145	B P Oil Lorain	12545 S Avon Belden Rd	Grafton	OH	44044
T-34-OH-3146	Equilon Enterprises	817 West Vine Street	Lima	OH	45804
T-34-OH-3147	B P Oil Tiffin	197 Wall Street	Tiffin	OH	44883
T-34-OH-3148	B P Oil Toledo	2450 Hill Avenue	Toledo	OH	43607
T-34-OH-3149	Delta Fuels Toledo	1820 South Front	Toledo	OH	43605
T-34-OH-3150	Fleet Supplies	250 Mahoning Ave	Cleveland	OH	44101
T-34-OH-3151	MAPLLC Brecksville	10439 Brecksville Road	Brecksville	OH	44141
T-34-OH-3152	MAPLLC Lima	2990 South Dixie Highway	Lima	OH	45804
T-34-OH-3153	MAPLLC Oregon	4131 Seaman Road	Oregon	OH	43616
T-34-OH-3154	MAPLLC Steubenville	28371 Kingsdale Road	Steubenville	OH	43952
T-34-OH-3155	MAPLLC Youngstown	1140 Bears Den Road	Youngstown	OH	44511
T-34-OH-3157	Equilon Enterprises LLC	2201 W. Third Street	Cleveland	OH	44113
T-34-OH-3158	Equilon Enterprises LLC	1500 W. Buckeye Rd.	Lima	OH	45804
T-34-OH-3159	Sun Akron	999 Home Avenue	Akron	OH	44310
T-34-OH-3160	Sun Cleveland	3200 Independence Road	Cleveland	OH	44105
T-34-OH-3161	Sun Toledo	1601 Woodville Road	Toledo	OH	43605
T-34-OH-3162	Sun Company Youngstown	6331 Southern Boulevard	Youngstown	OH	44512
T-34-OH-3164	CITGO—Tallmadge	1595 Southeast Avenue	Tallmadge	OH	44278
T-34-OH-3165	CITGO—Oregon	1840 Otter Creek Road	Oregon	OH	443616
T-34-OH-3166	MAPLLC Bellevue	Rural Route 4	Bellevue	OH	44811
T-34-OH-3167	B P Oil Niles	1001 Youngstown Warren Rd	Niles	OH	41446

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-34-OH-3169	Equilon Enterprises LLC	2844 Summit St	Toledo	OH	43611
T-34-OH-3170	Equilon Enterprises LLC	10346 Brecksville Rd	Brecksville	OH	44141
T-34-OH-3173	TransMontaigne Terminaling	15982 U.S. Rte 127 EW	Bryan	OH	43506
T-73-OK-2600	Total Petroleum Ardmore	Hwy 142 Bypass	Ardmore	OK	73401
T-73-OK-2606	Williams Pipeline Enid	1401 North 30th Street	Enid	OK	73701
T-73-OK-2608	Conoco—Jenks	Route Two	Jenks	OK	74037
T-73-OK-2609	Phillips 66 Laverne	U S 283	Laverne	OK	73848
T-73-OK-2610	Koch Hydrocarbon-Medford	US 81	Medford	OK	73759
T-73-OK-2612	Conoco Oklahoma City	4700 NE Tenth	Oklahoma City	OK	73111
T-73-OK-2613	Williams Pipeline Co Okla City	251 N Sunny Lane	Del City	OK	73117
T-73-OK-2614	Equilon Enterprises LLC	951 N. Vickie	Oklahoma City	OK	73117
T-73-OK-2616	Williams Pipeline Oklahoma Cty	1250 S High St	Oklahoma City	OK	73129
T-73-OK-2617	Conoco—Ponca City	South Highway 60	Ponca City	OK	74601
T-73-OK-2618	Sinclair Pipeline Shawnee	39101 MacArthur Road	Shawnee	OK	74802
T-73-OK-2620	Sinclair Pipeline Tulsa	1307 W 35th St	Tulsa	OK	74107
T-73-OK-2621	Sun—Tulsa	1700 South Union	Tulsa	OK	74102
T-73-OK-2622	Williams Pipeline Tulsa	2120 S 33rd Ave	Tulsa	OK	74107
T-73-OK-2623	Diamond Shamrock Turpin	Hwy 64 & Junction Rt 2	Turpin	OK	73950
T-73-OK-2624	Gary Williams Energy Corp	906 South Powell	Wynnewood	OK	73098
T-93-OR-4452	Tidewater Terminal Umatilla	535 Port Avenue	Umatilla	OR	97882
T-93-OR-4453	Tosco Coos Bay	2640 North Bayshore	Coos Bay	OR	97420
T-93-OR-4454	SFPP LP Eugene	1765 Prairie Road	Eugene	OR	97402
T-93-OR-4455	ARCO Portland Terminal	9930 NW St Helens Rd	Portland	OR	97231
T-93-OR-4456	Chevron USA Portland	5531 Northwest Doane Street	Portland	OR	97210
T-93-OR-4457	GATX Terminals Portland	11400 NW St Helen's Road	Portland	OR	97283
T-93-OR-4458	McCall Oil Portland	5480 NW Front Ave	Portland	OR	97210
T-93-OR-4459	Mobil Portland	9420 Northwest St Helen's Rd	Portland	OR	97231
T-93-OR-4460	GATX Portland	5880 NW St Helen's Road	Portland	OR	97210
T-93-OR-4461	Equilon Enterprises LLC	3800 NW St. Helen's Road	Portland	OR	97210
T-93-OR-4462	Shore Terminals LLC	9100 NW St Helen's Road	Portland	OR	97231
T-93-OR-4463	Time Oil Portland Burgard	12005 North Burgard Street	Portland	OR	97203
T-93-OR-4464	Tosco Portland	5528 Northwest Doane	Portland	OR	97210
T-23-PA-1700	Agway Petroleum Corp.—Macungie	Buckeye Road	Macungie	PA	18062
T-23-PA-1701	Mobil Oil Allentown	1134 North Quebec Street	Allentown	PA	18103
T-23-PA-1702	Farm & Home Oil Co.—Macungie	Buckeye Road	Macungie	PA	18062
T-23-PA-1703	Gulf Oil—Dupont	674 Suscon Rd	Pittston Township	PA	18641
T-23-PA-1704	Carlos R Leffler Inc Macungie	5088 Shippers Lane	Macungie	PA	18062
T-23-PA-1705	Petron Oil Corporation	One Ward Street	Chester	PA	19013
T-23-PA-1706	Petroleum Products—Avoca	801 Suscon Rd.	Avoca	PA	18641
T-23-PA-1707	Petroleum Products Du Pont	Suscon Road	Avoca	PA	18641
T-23-PA-1708	Carlos R Leffler Inc S Spring	Mountain Home Road	Sinking Spring	PA	19608
T-23-PA-1709	Montour Oil Service	112 Broad St	Montoursville	PA	17754
T-23-PA-1710	Sun Exton	601 East Lincoln Hwy	Exton	PA	19341
T-23-PA-1711	Sun—Fullerton	2480 Main St	Whitehall	PA	18052
T-23-PA-1713	Mobil Oil Harrisburg	5140 Paxton Street	Harrisburg	PA	17111
T-23-PA-1714	Petroleum Products Harrisburg	3300 Industrial Road	Harrisburg	PA	17110
T-23-PA-1715	Petroleum Products Harrisburg	RD #5 Texaco Drive	Mechanicsburg	PA	17055
T-23-PA-1716	Petroleum Products Highspire	900 Eisenhower Blvd	Middletown	PA	17057
T-23-PA-1717	Coastal Oil New York Inc	Sylvan Dell Rd	South Williamsport	PA	17701
T-23-PA-1718	Mobil Oil Malvern	8 South Malin Rd	Malvern	PA	19406
T-23-PA-1720	Sun Kingston	60 S Wyoming Avenue	Edwardsville	PA	18704
T-23-PA-1721	Mobil Oil Lancaster	1360 Manheim Pike	Lancaster	PA	17604
T-23-PA-1722	Sun Malvern	Lincoln Hwy & Malin Road	Malvern	PA	19355
T-23-PA-1724	Petroleum Products-Mechanicsbu	Sinclair Rd	Mechanicsburg	PA	17055
T-23-PA-1725	Gulf Oil Mechanicsburg	5125 Simpson Ferry Rd	Mechanicsburg	PA	17055
T-23-PA-1726	Sun Mechanicsburg	5145 Simpson Ferry Road	Mechanicsburg	PA	17055
T-23-PA-1727	Sun Montello	Fritztown Road	Sinking Spring	PA	19608
T-23-PA-1728	Petroleum Prod Northumberland	Rt 11 North RD 1	Northumberland	PA	17857
T-23-PA-1729	Sun Northumberland	Rt 11 North Rd 1	Northumberland	PA	17857
T-23-PA-1730	Amerada Hess—Philadelphia	1630 South 51st Street	Philadelphia	PA	19143
T-23-PA-1731	Amoco Oil Philadelphia	63rd & Passyunk Avenue	Philadelphia	PA	19153
T-23-PA-1732	Bayway Refining Co.—Phila	G Street & Hunting Park Ave.	Philadelphia	PA	19124
T-23-PA-1733	Pipeline Petroleum-MaCungie	Shippers Lane	Macungie	PA	18062
T-23-PA-1734	Exxon USA Philadelphia	6850 Essington Avenue	Philadelphia	PA	19153
T-23-PA-1735	Artex Inc	Rt 54 & Lakeview Rd	Barnesville	PA	18214
T-23-PA-1736	Sun Philadelphia	2700 W Passyunk Avenue	Philadelphia	PA	19145
T-23-PA-1737	Support Terminals Operating LP	67th & Schuylkill River	Philadelphia	PA	19153
T-23-PA-1738	Pickelner Fuel Company Inc	210 Locust St	Williamsport	PA	17701
T-23-PA-1739	TravelCenters of America, Inc.	Rt 11 & Cemetery Rd.	Beach Haven	PA	18601
T-23-PA-1740	Montour Oil Service-Harrisburg	80 South 40th St.	Harrisburg	PA	17111
T-23-PA-1741	Montour Oil Service-Montoursville	Rt I-180/Warrens ville	Montoursville	PA	17754
T-23-PA-1742	Petroleum Products-Sinking Spr	Mountain Home Rd	Sinking Spring	PA	19608

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-23-PA-1743	Carlos R Leffler Inc	Sylvan Dell Road	South Williamsport	PA	17701
T-23-PA-1744	Sun Tamaqua	Tuscarora State Park Rd	Tamaqua	PA	18252
T-23-PA-1745	C R Leffler Tuckerton	4030 Pottsville Pike	Reading	PA	19605
T-23-PA-1746	Sun Twin Oaks	4041 Market Street	Aston	PA	19014
T-23-PA-1747	Sun Company Inc (R&M)	9th Green St	Marcus Hook	PA	19061
T-23-PA-1748	Gulf Oil Whitehall	2451 Main Street	Whitehall	PA	18052
T-23-PA-1749	Gulf Oil Williamsport	Sylvan Dell Rd	Williamsport	PA	17703
T-23-PA-1751	Sun Willow Grove	3290 Sunset Lane	Hatboro	PA	19040
T-23-PA-1752	Berks Fuel Storage Inc-Reading	130 Whitman Road	Reading	PA	19605
T-23-PA-1753	Meenan Oil Co Tullytown	113 Main Street	Tullytown	PA	19007
T-23-PA-1754	C R Leffler New Kingston	236 Locust Pt Road	New Kingston	PA	17702
T-23-PA-1755	Major Oil-Philadelphia	501 E. Hunting Park Ave.	Philadelphia	PA	19124
T-23-PA-1756	F C Haab Co Inc	Schuylkill River & Morris Rd	Philadelphia	PA	19145
T-23-PA-1757	Sun Company Inc (R&M)	Hewes Ave & Philadelphia Pike	Marcus Hook	PA	19061
T-23-PA-1758	Getty Oil—Highspire	911 Eisenhower Blvd.	Highspire	PA	17034
T-23-PA-1759	TransMontaigne Terminaling, Inc.	58th St. & Schuylkill River	Philadelphia	PA	19142
T-23-PA-1763	Two River Terminal-Duncannon	27 Chevron Drive	Duncannon	PA	17020
T-23-PA-1764	American Refining Bradford	77 North Kendall Ave.	Bradford	PA	16701
T-25-PA-1760	Buckeye Tank Term Coraopolis	520 Narrows Run Road	Coraopolis	PA	15108
T-25-PA-1761	Sun Delmont	Route 66 North	Delmont	PA	15626
T-25-PA-1762	Boswell Oil Co Dravosburg	702 Washington Avenue	Dravosburg	PA	15034
T-25-PA-1765	Petroleum Products-E. Freedom	Old Rte US 220	East Freedom	PA	16637
T-25-PA-1767	Petroleum Products Eldorado	Burns Avenue	Altoona	PA	16602
T-25-PA-1768	MAPLLC Floreffe	204 Glass House Road	Floreffe	PA	15025
T-25-PA-1769	B P Oil Greensburg	Rural Delivery 6	Greensburg	PA	15601
T-25-PA-1771	American Refining Indianola	State Route 910	Indianola	PA	15051
T-25-PA-1773	MAPLLC Petroleum-Midland	Rt. 68	Midland	PA	15059
T-25-PA-1776	Exxon USA Pittsburgh	2760 Neville Road	Pittsburgh	PA	15225
T-25-PA-1777	Gulf Oil Pittsburgh	400 Grand Ave	Pittsburgh	PA	15225
T-25-PA-1778	Gulf Oil Pittsburgh/Delmont	Route 22	Delmont	PA	15626
T-25-PA-1779	Pennzoil Products Pittsburgh	54th Street and AVRR	Pittsburgh	PA	15201
T-25-PA-1780	Motiva Enterprises LLC	Nine Thorn Street	Coraopolis	PA	15108
T-25-PA-1781	Sun Pittsburgh	5733 Butler Street	Pittsburgh	PA	15201
T-25-PA-1782	Pennzoil Products Rouseville	Two Main Street	Rouseville	PA	16344
T-25-PA-1783	United Refining Warren	15 Bradley St	Warren	PA	16365
T-25-PA-1785	Gulf Oil Altoona	6033 Sixth Avenue	ALtoona	PA	16602
T-25-PA-1788	Sun Altoona	Route 764 Sugar Run Road	Altoona	PA	16601
T-25-PA-1789	Sun Vanport	Route 68 & Division Lane	Vanport	PA	15009
T-25-PA-1790	Guttman Oil Belle Vernon	200 Speers Road	Belle Vernon	PA	15012
T-25-PA-1791	Sun Blawnox	Freeport Road & Boyd Avenue	Pittsburgh	PA	15238
T-25-PA-1792	B P Oil Coraopolis	Access State Route 51	Coraopolis	PA	15108
T-05-RI-1200	Getty Terminal Providence	Dexter Rd & Massasoit Ave	East Providence	RI	02914
T-05-RI-1201	Sprague Energy Providence	144 Allens Avenue	Providence	RI	02903
T-05-RI-1203	Capital Terminal Company	100 Dexter Road	East Providence	RI	02914
T-05-RI-1205	Motiva Enterprises LLC	520 Allens Avenue	Providence	RI	02905
T-05-RI-1207	Mobil Oil East Providence	1001 Wampanoag Trail	East Providence	RI	02915
T-06-RI-1208	Inland Fuel Terminal Inc.	25 State Ave.	Tiverton	RI	02878
T-57-SC-2050	TransMontaigne	Highway 20 North	Belton	SC	29627
T-57-SC-2051	TransMontaigne	Hwy 20 North	Belton	SC	29627
T-57-SC-2052	TransMontaigne	680 Delmar Road	Spartansburg	SC	29302
T-57-SC-2053	MAPLLC	14315 State Rt. 20	Belton	SC	29627
T-57-SC-2054	Allied Terminal	1500 Greenleaf St.	Charleston	SC	29405
T-57-SC-2059	Williams Energy	Sweet Water Road	North Augusta	SC	29841
T-57-SC-2060	Charter Terminal Co.	221 Laurel Lake Drive	North Augusta	SC	29841
T-57-SC-2061	B P Oil	221 Sweetwater Rd.	North Augusta	SC	29841
T-57-SC-2062	Phillips Pipeline	Highway 36 & Sweetwater	North Augusta	SC	29841
T-57-SC-2063	Southern Facilities	1222 Sweetwater Road	North Augusta	SC	29841
T-57-SC-2064	Amerada Hess	5155 Virginia Ave.	North Charleston	SC	29406
T-57-SC-2066	MAPLLC	5165 Virginia Ave	Charleston	SC	29406
T-57-SC-2067	TransMontaigne	Old Union Road	Spartansburg	SC	29304
T-57-SC-2068	Williams Energy	Old Union Rd Route 4	Spartansburg	SC	29304
T-57-SC-2071	Crown Central	400 Delmar Rd	Spartansburg	SC	29304
T-57-SC-2074	Phillips Pipeline	200 Nebo Street	Spartansburg	SC	29302
T-57-SC-2075	Motiva Enterprises LLC	300 Delmar Road	Spartansburg	SC	29302
T-57-SC-2076	Southern Facility	2430 Pine Street Ext	Spartansburg	SC	29302
T-57-SC-2077	CITGO Petroleum	2590 Southport Road	Spartansburg	SC	29302
T-46-SD-3550	Kaneb Pipe Line Aberdeen	Hwy 281	Aberdeen	SD	57401
T-46-SD-3551	Kaneb Pipe Line Mitchell	Hwy 38	Mitchell	SD	57301
T-46-SD-3552	Kaneb PipeLine Rapid City	3225 Eglin Street	Rapid City	SD	57701
T-46-SD-3553	Amoco Oil Sioux Falls	3751 S Grange	Sioux Falls	SD	57105
T-46-SD-3554	Williams Pipeline Sioux Falls	5300 west 12th Street	Sioux Falls	SD	57107
T-46-SD-3555	Williams Pipeline Watertown	1000 17th Street S E	Watertown	SD	57201

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-46-SD-3556	Kaneb Pipe Line Wolsey	US Hwy 14 & 281	Wolsey	SD	57384
T-46-SD-3557	Kaneb Pipe Line Yankton	Star Rte 50	Yankton	SD	57078
T-46-SD-3558	Williams Pipe Line Canton	RR #1 Box 12 A	Canton	SD	57013
T-62-TN-2200	Amoco Oil Chattanooga	4235 Jersey Pike	Chattanooga	TN	37416
T-62-TN-2201	Chevron USA Chattanooga	4716 Bonny Oaks Drive	Chattanooga	TN	37416
T-62-TN-2202	CITGO Chattanooga	4233 Jersey Pike	Chattanooga	TN	37416
T-62-TN-2203	Truman Arnold Memphis	1237 Riverside	Memphis	TN	38106
T-62-TN-2204	Lion Oil Nashville	90 Van Buren St	Nashville	TN	37208
T-62-TN-2205	MAPLLC Chattanooga	817 Pineville Road	Chattanooga	TN	37405
T-62-TN-2206	Louis Dreyfus Chattanooga	5800 St Elmo Avenue	Chattanooga	TN	37409
T-62-TN-2207	Benton Oil Service, Inc.	4211 Cromwell Rd.	Chattanooga	TN	37421
T-62-TN-2208	Southern Facility Chattanooga	4326 Jersey Pike	Chattanooga	TN	37416
T-62-TN-2209	Amoco—Chattanooga	710 Manufacturers Road	Chattanooga	TN	37405
T-62-TN-2211	Amoco Oil Knoxville	5101 Middlebrook Pike NW	Knoxville	TN	37921
T-62-TN-2213	CITGO Knoxville	2409 Knott Road	Knoxville	TN	37921
T-62-TN-2214	Cummins Terminals Knoxville	4715 Middlebrook Pike	Knoxville	TN	37921
T-62-TN-2215	Exxon USA Knoxville	5009 Middlebrook Pike	Knoxville	TN	37921
T-62-TN-2216	B P Oil Knoxville	1908 Third Creek Road	Knoxville	TN	37921
T-62-TN-2217	MAPLLC Oil Knoxville	2601 Knott Road	Knoxville	TN	37950
T-62-TN-2218	Motiva Enterprises LLC	5001 Middlebrook Pike NW	Knoxville	TN	37921
T-62-TN-2219	Southern Facility Knoxville	4801 Middlebrook Pike	Knoxville	TN	37921
T-62-TN-2221	Louis Dreyfus Knoxville	1720 Island Home Avenue	Knoxville	TN	37920
T-62-TN-2225	Exxon USA Memphis	454 Wisconsin Avenue	Memphis	TN	38106
T-62-TN-2226	Lion Oil Memphis	1023 Riverside	Memphis	TN	38106
T-62-TN-2227	MAPCO Petroleum Memphis		Memphis	TN	38109
T-62-TN-2228	Petroleum Fuel Memphis	1232 Riverside	Memphis	TN	38106
T-62-TN-2231	Amoco Oil Nashville	1441 51st Avenue North	Nashville	TN	37209
T-62-TN-2232	MAPLLC Nashville	Five Main Street	Nashville	TN	37213
T-62-TN-2233	CITGO Nashville	720 South Second Street	Nashville	TN	37213
T-62-TN-2234	Cumberland Terminals Nashville	7260 Centennial Boulevard	Nashville	TN	37209
T-62-TN-2236	Exxon USA Nashville	1741 Ed Temple Blvd	Nashville	TN	37208
T-62-TN-2237	B P Oil Nashville	1409 51st Ave	Nashville	TN	37209
T-62-TN-2238	MAPLLC Nashville	2920 Old Hydes Ferry Road	Nashville	TN	37218
T-62-TN-2240	Williams Energy Ventures-Nashv	1609 63rd Avenue North	Nashvilleue North	TN	37209
T-62-TN-2241	Motiva Enterprises LLC	1717 61st & Centennial Blvd.	Nashville	TN	37209
T-62-TN-2242	Kerr-McGee Nashville	180 Anthes Avenue	Nashville	TN	37210
T-62-TN-2243	Cummins Terminal-Knoxville	5100 Middlebrook Pike	Knoxville	TN	37921
T-74-TX-2658	Mobil Oil Hearne	Highway 6 South	Hearne	TX	76705
T-74-TX-2700	Coastal Oil—Edinburg	222 W. Ingle Rd.	Edinburg	TX	78359
T-74-TX-2702	Motiva Enterprises LLC	Highway 6 South	Hearne	TX	77859
T-74-TX-2703	CITGO Victoria	1708 North Ben Jordan Blvd	Victoria	TX	77901
T-74-TX-2705	Motiva Enterprises LLC Waco	420 South Lacy drive	Waco	TX	76705
T-74-TX-2706	Koch Petroleum Group-Austin	9011 Johnny Morris Rd	Austin	TX	78724
T-74-TX-2707	Koch Petroleum Group-Waco	2017 Kendall Lane	Waco	TX	76705
T-74-TX-2709	CITGO—Brownsville	11001 R.L. Ostos Rd.	Brownsville	TX	78521
T-74-TX-2710	Equilon Enterprises LLC	6767 Gateway West	El Paso	TX	79926
T-74-TX-2711	CITGO Oil Corpus Christi	2505 N Port Ave	Corpus Christi	TX	78401
T-74-TX-2712	Age Refining, Inc.	7811 S. Presa	San Antonio	TX	78223
T-74-TX-2713	CITGO Bryan	1714 Finfeather Road	Bryan	TX	77801
T-74-TX-2715	Diamond Laredo	13380 S Unitec	Laredo	TX	78044
T-74-TX-2716	CITGO—Corpus Christi	1308 Oak Park Street	Corpus Christi	TX	78407
T-74-TX-2718	Coastal Oil Corpus Christi	1300 Cantwell	Corpus Christi	TX	78407
T-74-TX-2719	Diamond—Corpus Christi	2700 Texaco Road	Corpus Christi	TX	78403
T-74-TX-2721	Koch Petroleum Group-Corpus Christi.	2825 Suntide Road	Corpus Christi	TX	78403
T-74-TX-2724	Chevron USA El Paso	6501 Trowbridge	El Paso	TX	79905
T-74-TX-2726	Navajo Refining El Paso	1000 Eastside Road	El Paso	TX	79915
T-74-TX-2729	Diamond Harlingen	4.5 miles east on highway 106	Harlingen	TX	78550
T-74-TX-2731	Coastal Oil—Placedo	2 Mi S of Placedo Hwy 87	Placedo	TX	77977
T-74-TX-2733	Fina Oil Port Arthur Hwy 366	Highway 366 and 32nd Street	Port Arthur	TX	77640
T-74-TX-2737	CITGO—San Antonio	4851 Emil Road	San Antonio	TX	78219
T-74-TX-2738	Coastal Oil San Antonio	4719 Corner Parkway #2	San Antonio	TX	78219
T-74-TX-2739	Diamond San Antonio	10619 Highway 281 South	San Antonio	TX	78221
T-74-TX-2740	Exxon USA San Antonio	3214 North Pan Am Expressway	San Antonio	TX	78219
T-74-TX-2742	Koch Petroleum Group-San Antonio.	498 and Pop Gun	San Antonio	TX	78219
T-74-TX-2745	Motiva Enterprises LLC	510 Petroleum Drive	San Antonio	TX	78219
T-74-TX-2747	Diamond Three Rivers	301 Leroy Street	Three Rivers	TX	78071
T-74-TX-2748	Fina Oil and Chemical Co.	I-20 West Exit 278	Tye	TX	79563
T-74-TX-2749	CITGO Waco	1600 South Loop Dr	Waco	TX	76705
T-74-TX-2750	Ultramar—Diamond Shamrock	4200 J.C. Vera Montes	El Paso	TX	79936
T-75-TX-2650	Diamond Abernathy	Highway 54	Abernathy	TX	79311

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-75-TX-2651	Fina Oil Abilene	Highway 277 North	Abilene	TX	79604
T-75-TX-2652	Pride Abilene	Hwy 277 N Industrial District	Abilene	TX	79604
T-75-TX-2653	Diamond Amarillo	4200 West Cliffside	Amarillo	TX	79124
T-75-TX-2654	Phillips 66 Amarillo	4300 Cliffside Dr	Amarillo	TX	79142
T-75-TX-2655	Phillips Pipeline Company	12401 Calloway Cemetery Road	Eules	TX	76040
T-75-TX-2656	Fina Oil Big Spring	East IS-20 & Refinery Rd	Big Springs	TX	79721
T-75-TX-2657	Phillips 66 Borger	Spur 119 N	Borger	TX	79007
T-75-TX-2659	Truman Arnold Caddo Mills		Caddo Mills	TX	75505
T-75-TX-2660	Exxon USA Dallas	1201 East Airport Freeway	Irving	TX	75062
T-75-TX-2661	Williams Energy	4200 Singleton Boulevard	Dallas	TX	75212
T-75-TX-2662	Motiva Enterprises LLC	3900 Singleton Blvd.	Dallas	TX	75212
T-75-TX-2663	Ogden Aviation Co. of TX Love Field.	2734 Brookfield	Dallas	TX	75235
T-75-TX-2664	Koch Petroleum Group-Fort Worth	Highway 157 and Trinity Blvd	Eules	TX	76040
T-75-TX-2665	Pride Aledo	6000 IH20	Aledo	TX	76008
T-75-TX-2666	Chevron USA Fort Worth	2525 Brennan Street	Fort Worth	TX	76106
T-75-TX-2667	CITGO Fort Worth	301 Terminal Road	Fort Worth	TX	76106
T-75-TX-2668	Mobil Oil Fort Worth	3600 North Sylvania	Fort Worth	TX	76111
T-75-TX-2669	Motiva Enterprises LLC	3200 N. Sylvania	Fort Worth	TX	76111
T-75-TX-2671	Conoco Southlake	3100 Highway 26 West	Grapevine	TX	76051
T-75-TX-2672	Fina Oil Southlake	3000 Highway 26 West	Grapevine	TX	76051
T-75-TX-2673	Ogden Aviation Services of TX DFW.	2001 W. Airfield Dr.	DFW Airport	TX	75261
T-75-TX-2674	Phillips 66 Lubbock	Clovis Road and Flint Avenue	Lubbock	TX	79408
T-75-TX-2676	Conoco Mount Pleasant	1503 West Ferguson	Mount Pleasant	TX	75455
T-75-TX-2678	Mobil—Center	Hwy 87 South	Center	TX	75935
T-75-TX-2680	Diamond Southlake	1700 Hwy 26	Grapevine	TX	76051
T-75-TX-2681	La Gloria Oil Tyler	425 McMurry Drive	Tyler	TX	75702
T-75-TX-2682	Diamond Sunray	9 Mi NE of Dumas TX on FM 119	Sunray	TX	79086
T-75-TX-2683	Fina Oil Wichita Falls	Old Charlie & Sinclair Blvd	Wichita Falls	TX	76307
T-75-TX-2684	Conoco—Wichita Falls	1214 North Eastside	Wichita Falls	TX	76304
T-75-TX-2685	Equilon Enterprises LLC—Odessa	2700 S. Grandview	Odessa	TX	79760
T-75-TX-2686	Pride San Angelo	4008 U S Hwy 67N	San Angelo	TX	76905
T-75-TX-2687	Motiva Enterprises LLC	Farm Road 9	Waskom	TX	75692
T-75-TX-2688	Mobil Oil Waskom	9 South	Waskom	TX	75692
T-75-TX-2690	DFLP Terminal	12625 Calloway Cemetery Rd	Eules	TX	76040
T-76-TX-2780	Petro-United Terminals Bayport	11666 Port Road	Seabrook	TX	77586
T-76-TX-2782	Motiva Enterprises LLC	1320 West Shaw St.	Pasadena	TX	77501
T-76-TX-2783	Motiva Enterprises LLC	9406 West Port Arthur Rd	Beaumont	TX	77705
T-76-TX-2784	Chevron USA Product Co. Big Sandy.	Highway 155 and Sabine River	Big Sandy	TX	75755
T-76-TX-2785	Motiva Enterprises LLC	401 West 19th Street	Port Arthur	TX	77640
T-76-TX-2787	UNOCAL Beaumont	Hwy 366	Nederland	TX	77627
T-76-TX-2788	GATX Galena Park	906 Clinton Drive	Galena Park	TX	77547
T-76-TX-2789	Chevron USA Galena Park	12523 American Petroleum Rd	Galena Park	TX	77547
T-76-TX-2791	Specified Fuels and Chemicals LLC	1201 S Sheldon Rd	Channelview	TX	77530
T-76-TX-2792	Amerada Hess—Galena Park	12901 American Petroleum Rd	Galena Park	TX	77547
T-76-TX-2793	Coastal Refining & Marketing	8376 Monroe	Houston	TX	77061
T-76-TX-2794	CITGO Houston	12325 North Fwy at Greens Rd	Houston	TX	77060
T-76-TX-2795	Coastal Oil Houston	11650 Alameda Road Loop 610	Houston	TX	77045
T-76-TX-2796	Intercoastal Terminal, Inc.	159 Levee Rd.	Texas City	TX	77590
T-76-TX-2797	J A M Distributing Co.	7010 Myrawa	Houston	TX	77033
T-76-TX-2798	Mobil Oil Beaumont	Route 4	Beaumont	TX	77705
T-76-TX-2799	Jetera Fuels Houston	17617 Aldine-Westfield Road	Houston	TX	77073
T-76-TX-2800	Lyondell-CITGO Refining	12000 Lawndale	Houston	TX	77002
T-76-TX-2801	Fina Oil Port Arthur 32nd	Hwy 366 & 32nd St	Port Arthur	TX	77642
T-76-TX-2802	Oil Tanking Houston, Inc.	15602 Jacinto Port Blvd.	Houston	TX	77015
T-76-TX-2803	Motiva Enterprises LLC	2661 Stevens Street	Houston	TX	77226
T-76-TX-2805	Petroleum Wholesale, Inc.	1801 Collingsworth	Houston	TX	77099
T-76-TX-2806	Valero Refining Co.—Texas (Houston).	9701 Manchester	Houston	TX	77262
T-76-TX-2808	Exxon USA North Houston	8700 North Freeway	Houston	TX	77037
T-76-TX-2809	GATX Pasadena	530 North Witter	Pasadena	TX	77506
T-76-TX-2811	Phillips Pipeline Pasadena	100 Jefferson Street	Pasadena	TX	77501
T-76-TX-2812	Exxon USA South Houston	10501 East Alameda	Houston	TX	77051
T-76-TX-2813	Phillips 66 Sweeny	Hwys 35 & 36 at West Columbia	Sweeny	TX	77480
T-76-TX-2814	S T Services Texas City	201 Dock Road	Texas City	TX	77590
T-76-TX-2815	Intercontinental Terminals Co.	1943 Battleground Rd.	Deer Park	TX	77536
T-87-UT-4200	Flying J North Salt Lake	333 West Center St	North Salt Lake	UT	84054
T-87-UT-4202	Amoco Oil Salt Lake City	474 West 900 N	Salt Lake City	UT	84103
T-87-UT-4203	Chevron USA Salt Lake City	2351 North Tenth West	Salt Lake City	UT	84110
T-87-UT-4204	Conoco Pipeline Co.	245 East 1100 North	North Salt Lake City	UT	84054

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-87-UT-4205	Crysen Refining Woods Cross	2355 South 1100 West	Woods Cross	UT	84087
T-87-UT-4206	Phillips 66 Woods Cross	393 South 800 West	Woods Cross	UT	84087
T-54-VA-1650	Amerada Hess Corporation	4030 Buell Street	Chesapeake	VA	23324
T-54-VA-1651	Center Point Terminal Co.	428 Barnes Road	Chesapeake	VA	23324
T-54-VA-1652	CITGO Petroleum Corporation	110 Freeman Street	Chesapeake	VA	23324
T-54-VA-1653	Allied Terminals, Inc.	502 Hill Street	Chesapeake	VA	23324
T-54-VA-1654	Exxon USA	4115 Buell Street	Chesapeake	VA	23324
T-54-VA-1656	TransMontaigne Terminaling, Inc.	7600 Halifax Lane	Chesapeake	VA	23324
T-54-VA-1657	Kinder Morgan Operating LP A	3302 Deepwater Terminal Rd	Richmond	VA	23234
T-54-VA-1658	S T Services Dumfries	18000 Cockpit Point Road	Dumfries	VA	22026
T-54-VA-1659	Amoco Oil Fairfax	9601 Colonial Avenue	Fairfax	VA	22031
T-54-VA-1660	Global Petro	3790 Pickett Road	Fairfax	VA	22031
T-54-VA-1661	CITGO Fairfax	9600 Colonial Avenue	Fairfax	VA	22031
T-54-VA-1662	Motiva Enterprises LLC	3800 Pickett Road	Fairfax	VA	22030
T-54-VA-1663	Mobil Oil Manassas	10315 Ballsford Road	Manassas	VA	23109
T-54-VA-1664	TransMontaigne Terminaling, Inc.	Route 460	Montvale	VA	24122
T-54-VA-1665	Amoco Petroleum—Montvale	1070 Oil Terminal Rd	Montvale	VA	24122
T-54-VA-1666	Chevron Products Co—Montvale	1147 Oil Terminal Rd	Montvale	VA	24122
T-54-VA-1667	IMTT-Chesapeake	2801 S. Military Hwy.	Chesapeake	VA	23323
T-54-VA-1668	Williams Energy Ventures, Inc.	U S Highway 460, PO Box 113	Montvale	VA	24122
T-54-VA-1669	Koch Petroleum Group-Newport News.	801 Terminal Ave	Newport News	VA	23607
T-54-VA-1670	Crown Central Newington	8211 Terminal Road	Newington	VA	22122
T-54-VA-1671	Exxon USA Newington	8200 Terminal Road	Newington	VA	22122
T-54-VA-1672	Kinder Morgan Operating LP A	413 Bickerstaff Rd	Richmond	VA	23231
T-54-VA-1673	Crown Central Petroleum Corp.	801 Butt Street	Chesapeake	VA	23324
T-54-VA-1674	Mobil Oil Norfolk	Halifax Lane	Chesapeake	VA	23324
T-54-VA-1675	Quarles Energy Services	8219 Terminal Rd.	Newington	VA	22122
T-54-VA-1676	BP Air-Wash. Dulles Bulk Fuel Storage.	Rt. 28, Gate 4	Dulles	VA	20166
T-54-VA-1677	BP-Amoco Oil Richmond	1636 Commerce Road	Richmond	VA	23224
T-54-VA-1678	Chevron USA Richmond	700 Goodes Street	Richmond	VA	23224
T-54-VA-1679	CITGO Richmond	Third & Maury Street	Richmond	VA	23224
T-54-VA-1680	Crown Central Richmond	4405 E Main	Richmond	VA	23231
T-54-VA-1681	Exxon-Mobile USA Richmond	2000 Trenton Avenue	Richmond	VA	23234
T-54-VA-1682	First Energy Corporation	Second & Maury Streets	Richmond	VA	23224
T-54-VA-1683	Koch Petroleum Group-Richmond	4110 Deepwater Terminal Road	Richmond	VA	23234
T-54-VA-1684	Williams Energy Ventures-Richm	204 East First Avenue	Richmond	VA	23224
T-54-VA-1685	Motiva Enterprises LLC	5801 Petersburg Pike	Richmond	VA	23234
T-54-VA-1687	TransMontaigne Terminaling, Inc.	1314 Commerce Road	Richmond	VA	23224
T-54-VA-1688	Exxon USA Roanoke	835 Hollins Road Northeast	Roanoke	VA	24012
T-54-VA-1689	MAPLLC Oil Roanoke	5287 Terminal Road	Roanoke	VA	24014
T-54-VA-1690	Motiva Enterprises LLC	5280 Terminal Road SW	Roanoke	VA	24014
T-54-VA-1691	Motiva Enterprises LLC	U.S. Highway 460	Montvale	VA	24122
T-54-VA-1692	Motiva Enterprises LLC	8206 Terminal Road	Lorton	VA	22079
T-54-VA-1693	S T Services Virginia Beach	3925 North Landing Road	Virginia Beach	VA	23456
T-54-VA-1694	Amoco Oil Yorktown	Route 73 East Entrance	Yorktown	VA	23690
T-54-VA-1696	IMTT- Richmond, VA	5501 Old Osborne Turnpike	Richmond	VA	23231
T-91-WA-4400	Equilon Enterprises LLC	Marches Point Five Miles	Anacortes	WA	98221
T-91-WA-4401	Conoco Pipeline Co.	3 miles north of Moses Lake	Moses Lake	WA	98837
T-91-WA-4402	Northwest Terminaling Pasco	3000 Sacajawea Park Road	Pasco	WA	99301
T-91-WA-4404	Tosco Northwest Renton	2423 Lind Avenue Southwest	Renton	WA	98055
T-91-WA-4406	GATX Seattle	1733 Alaskan Way South	Seattle	WA	98134
T-91-WA-4408	Equilon Enterprises LLC	2555 13th Ave. S W	Seattle	WA	98134
T-91-WA-4409	Time Oil Seattle	2737 West Commodore Way	Seattle	WA	98199
T-91-WA-4410	Conoco Pipeline Co.	6317 East Sharp Avenue	Spokane	WA	99206
T-91-WA-4411	Exxon USA Spokane	6311 East Sharp Avenue	Spokane	WA	99211
T-91-WA-4412	Tosco Northwest Spokane	3225 East Lincoln Road	Spokane	WA	99207
T-91-WA-4413	Tosco Northwest Tacoma	520 E D Street	Tacoma	WA	98421
T-91-WA-4414	Sound Refining Tacoma	2628 Marine View Drive	Tacoma	WA	98421
T-91-WA-4415	Shore Terminals LLC	250 East D Street	Tacoma	WA	98401
T-91-WA-4416	Equilon Enterprises LLC	7370 Linderson Way SW	Tumwater	WA	98501
T-91-WA-4417	CENEX Vancouver	5420 Fruit Valley Road	Vancouver	WA	98660
T-91-WA-4418	ARCO Cherry Point Terminal	4519 Grandview	Blaine	WA	98231
T-91-WA-4419	Tesoro Alaska Petro Vancouver	2211 West 26th Street Ext	Vancouver	WA	98660
T-91-WA-4420	Tidewater Snake River	Tank Farm Road	Pasco	WA	99301
T-91-WA-4421	US Oil & Refining Co.	3001 Marshall Ave	Tacoma	WA	98421
T-91-WA-4422	Tosco Tacoma	516 East D Street	Tacoma	WA	98421
T-91-WA-4423	Tidewater Terminal Wilma	2950 Wilma Drive	North Clarkston	WA	99403
T-91-WA-4424	Pacific Northern Oil Corp	Pier 91 Bldg 19	Seattle	WA	98119
T-91-WA-4425	ARCO Seattle Terminal	1652 SW Lander St	Seattle	WA	95124
T-91-WA-4427	Tosco Northwest Co.—Ferndale	3901 Unic Rd.	Ferndale	WA	98248

Terminal Number	Terminal Name	Terminal Address	City	State	Zip Code
T-39-WI-3061	Amoco Oil Green Bay	1124 North Broadway	Green Bay	WI	54303
T-39-WI-3062	Amoco Oil Milwaukee	9101 North 107th Street	Milwaukee	WI	53224
T-39-WI-3063	Amoco Oil Superior	2904 Winter Street	Superior	WI	54880
T-39-WI-3064	CENEX Chippewa Falls	2331 N Prairie View Rd	Chippewa Falls	WI	54729
T-39-WI-3065	CENEX McFarland	4103 Triangle St	McFarland	WI	53558
T-39-WI-3066	CITGO Green Bay	1391 Bylsby Avenue	Green Bay	WI	54303
T-39-WI-3067	CITGO McFarland	4606 Terminal Drive	McFarland	WI	53558
T-39-WI-3068	CITGO Milwaukee	9235 North 107th Street	Milwaukee	WI	53224
T-39-WI-3069	Terminal Oil Group Ltd	3910 Terminal Road	Madison	WI	53704
T-39-WI-3070	Halron Oil Company Inc	2020 N Quincy St	Green Bay	WI	54306
T-39-WI-3071	Koch Petroleum Group-Junction City.	Junction US 10 & 34N	Junction City	WI	54443
T-39-WI-3072	Koch Petroleum Group-Madison	4505 Terminal Drive	McFarland	WI	53558
T-39-WI-3073	Koch Petroleum Group-Milwaukee	9343 North 107th Street	Milwaukee	WI	53224
T-39-WI-3074	Koch Petroleum Group-Waupun	Route Two	Waupun	WI	53963
T-39-WI-3075	Green Bay Terminal	1031 Hurlbut Street	Green Bay	WI	54303
T-39-WI-3076	MAPLLC Milwaukee	9125 North 107th St	Milwaukee	WI	53224
T-39-WI-3077	Mobil Oil Green Bay	410 Prairie Ave	Green Bay	WI	54303
T-39-WI-3078	Equilon Enterprises LLC	1445 Bylsby Ave	Green Bay	WI	54303
T-39-WI-3079	Mobil Oil Madison	4516 Sigglekow Road	McFarland	WI	53558
T-39-WI-3080	Murphy Oil Superior	2407 Stinson Ave	Superior	WI	54880
T-39-WI-3081	S T Services Milwaukee	1626 South Harbor Drive	Milwaukee	WI	53207
T-39-WI-3082	Transmontaigne—Chippewa Fall	2553 North Prairie View Rd	Chippewa Falls	WI	54729
T-39-WI-3083	Center Terminal Co—Madison	4009 Triangle St Hwy 51 S	McFarland	WI	53558
T-39-WI-3084	US Oil Milwaukee	9135 North 107th Street	Milwaukee	WI	53224
T-39-WI-3086	U.S. Oil Milwaukee-North	9521 North 107th Street	Milwaukee	WI	53224
T-39-WI-3087	Williams Pipe Line Mosinee	2007 Old Highway 51	Mosinee	WI	54455
T-39-WI-3088	US Oil Madison	4402 Terminal Dr	Madison	WI	53558
T-39-WI-3089	U S Oil Green Bay West	1075 Hurlbut Ct	Green Bay	WI	54303
T-39-WI-3090	Equilon Enterprises LLC	9451 North 107th Street	Milwaukee	WI	53224
T-39-WI-3091	U S Oil Green Bay East	1910 N Quincy St	Green Bay	WI	54302
T-54-WV-1697	MAPLLC Petro TriState-Kenova	237 23rd Street	Kenova	WV	25530
T-55-WV-3181	Exxon USA Charleston	Standard St & MacCorkle Ave	Charleston	WV	25314
T-55-WV-3182	Pennzoil Products Charleston	1015 Barlow Dr	Charleston	WV	25333
T-55-WV-3183	Ergon West Virginia Inc.	Rt 2 South	Newell	WV	26050
T-55-WV-3184	Go-Mart St Albans	Oliver & Terminal Rd	St Albans	WV	25177
T-55-WV-3185	St Marys Refining	201 Barkwill St	St Mary's	WV	26170
T-55-WV-3186	Guttman Oil Star City	437 Industrial Ave	Star City	WV	26505
T-55-WV-3188	Baker Oil Co	US 60 Hughes Creek Rd	Hugheston	WV	25110
T-83-WY-4050	Conoco Sheridan	3404 Highway 87	Sheridan	WY	82801
T-83-WY-4051	Conoco Rock Springs	90 Foot Hill Blvd	Rock Springs	WY	82902
T-83-WY-4052	Little America Refining Casper	5100 E Hwy 20-26	Evansville	WY	82636
T-83-WY-4053	Kaneb Pipe Line Co—Cheyenne	1112 Parsley Blvd	Cheyenne	WY	82007
T-83-WY-4054	Sinclair Oil	East Lincoln Highway	Sinclair	WY	82334
T-83-WY-4055	Frontier Refining Cheyenne	2700 East Fifth Street	Cheyenne	WY	82007
T-83-WY-4056	Wyoming Refining Newcastle	740 W Main	Newcastle	WY	82701
T-84-WY-4057	Hawk Point Terminal	9397 Highway 59 South	Gillette	WY	82717
T-84-WY-4058	Silver Eagle Refining	2990 County Rd. #180	Evanston	WY	82930

[FR Doc. 00-19366 Filed 7-31-00; 8:45 am]
 BILLING CODE 4830-01-P]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax Counseling for the Elderly (TCE) Program Availability of Application Packages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Availability of TCE application packages.

SUMMARY: This document provides notice of the availability of Application

Packages for the 2001 Tax Counseling for the Elderly (TCE) Program.

DATES: Application Packages are available from the IRS at this time. The deadline for submitting an application package to the IRS for the 2001 Tax Counseling for the Elderly (TCE) Program is August 25, 2000.

ADDRESSES: Application Packages may be requested by contacting: Internal Revenue Service, 5000 Ellin Road, Lanham, MD, 20706, Attention: Program Manager, Tax Counseling for the Elderly Program, OP:C:E:W:E, Building C-7, Room 185.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Tyler, OP:C:E:W:E, Building C-7, Room 185, Internal Revenue Service,

5000 Ellin Road, Lanham, MD 20706. The non-toll-free telephone number is (202) 283-0189.

SUPPLEMENTARY INFORMATION: Authority for the Tax Counseling for the Elderly (TCE) Program is contained in Section 163 of the Revenue Act of 1978, Public Law 95-600, (92 Stat. 12810), November 6, 1978. Regulations were published in the **Federal Register** at 44 FR 72113 on December 13, 1979. Section 163 gives the IRS authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals.

Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Because applications are being solicited before the FY 2001 budget has been approved, cooperative

agreements will be entered into subject to appropriation of funds. Once funded, sponsoring agencies and organizations will receive a grant from IRS for administrative expenses and to reimburse volunteers for expenses incurred in training and in providing tax return assistance. The Tax Counseling for the Elderly (TCE)

Program is referenced in the Catalog of Federal Domestic Assistance in Section 21.006.

Dated: July 27, 2000.

John B. Gunner,

National Director, Education, Walk-In, and Correspondence Improvement Division.

[FR Doc. 00-19365 Filed 7-31-00; 8:45 am]

BILLING CODE 4830-01-M



Federal Register

**Tuesday,
August 1, 2000**

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 410, et al.

**Medicare Program; Provisions of the
Balanced Budget Refinement Act of 1999;
Hospital Inpatient Payments and Rates
and Costs of Graduate Medical Education;
Final Rules**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 410, 412, 413, 482, and 485

[HCFA-1131-IFC]

RIN 0938-AK20

Medicare Program; Provisions of the Balanced Budget Refinement Act of 1999; Hospital Inpatient Payments and Rates and Costs of Graduate Medical Education

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

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period implements, or conforms the regulations to, certain statutory provisions relating to Medicare payments to hospitals for inpatient services that are contained in the Medicare, Medicaid, and State Children's Health Insurance Program Balanced Budget Refinement Act of 1999 (Public Law 106-113). These provisions relate to reclassification of hospitals from urban to rural status, reclassification of certain hospitals for purposes of payment during Federal fiscal year 2000, critical access hospitals, payments to hospitals excluded from the hospital inpatient prospective payment system, and payments for indirect and direct graduate medical education costs.

Many of the provisions of Public Law 106-113 modify changes to the Social Security Act made by the Balanced Budget Act of 1997 (P.L. 105-33). These provisions are already in effect in accordance with Public Law 106-113.

DATES: *Effective Date:* This interim final rule with comment period is effective on August 1, 2000.

Comment Period: Comments will be considered if received at the appropriate address, as provided below, no later than 5 p.m. on August 31, 2000.

ADDRESSES: Mail written comments (an original and three copies) to the following address only: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-1131-IFC, P.O. Box 8010, Baltimore, MD 21244-1850.

If you prefer, you may deliver by courier your written comments (an original and three copies) to one of the following addresses:

Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5-14-03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Comments mailed to the indicated addresses may be delayed and could be considered late.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-1131-IFC.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443-G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890).

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

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2-14-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Attn: John Burke HCFA-1131-IFC; and Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt HCFA-1131-IFC, HCFA Desk Officer

FOR FURTHER INFORMATION CONTACT:

Steve Phillips, (410) 786-4531, Operating Prospective Payment, Wage Index, and Reclassifications
Tzvi Hefter, (410) 786-4487, Excluded Hospitals, Graduate Medical Education, and Critical Access Hospital Issues

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512-1800 or by faxing to (202) 512-2250. The cost for each copy is \$8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated

as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

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I. Background: Program Summary

Section 1886(d) of the Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of hospital inpatient stays under a prospective payment system. Under these prospective payment systems, Medicare payment for hospital inpatient operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. Discharges are classified according to a list of diagnosis-related groups (DRGs). Payment for cases within each DRG is weighted to account for the average resources used to treat patients within that DRG. In addition, these payments are adjusted by a wage index (and a geographic adjustment factor derived from the wage index in the case of capital payments) to account for the varying costs of labor across areas, and by separate adjustment factors for the additional operating costs associated with graduate medical education (GME) and for treating a disproportionate share of low-income patients.

Certain specialty hospitals are excluded from the prospective payment system. Under section 1886(d)(1)(B) of the Act, the following classes of hospitals and hospital units are excluded from the prospective payment system: psychiatric hospitals and units, rehabilitation hospitals and units, children's hospitals, long-term care hospitals, and cancer hospitals. For these hospitals and units, Medicare payment for operating costs is based on

reasonable costs subject to a hospital-specific annual limit.

Under sections 1814(l) and 1834(g) of the Act, payments are made to critical access hospitals (CAHs) (that is, rural nonprofit hospitals or facilities that meet certain statutory requirements) for inpatient and outpatient services on a reasonable cost basis. Reasonable cost is determined under the provisions of section 1861(v)(i)(A) of the Act and existing regulations under 42 CFR Parts 413 and 415.

Under section 1886(a)(4) of the Act, costs of approved educational activities are excluded from the operating costs of inpatient hospital services. Hospitals with approved GME programs are paid for the direct costs of GME in accordance with section 1886(h) of the Act; the amount of payment for direct GME costs for a cost reporting period is based on the hospital's costs per resident in a base year and the hospital's number of residents in that period.

The regulations governing the hospital inpatient prospective payment system are located in 42 CFR Part 412. The regulations governing excluded hospitals and hospital units and the regulations governing direct GME are located in 42 CFR Part 413. The regulations governing CAHs are located in 42 CFR Part 485.

II. Provisions of the Interim Final Rule With Comment Period

On November 29, 1999, the Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP) Balanced Budget Refinement Act of 1999 (Pub. L. 106-113) was enacted. Public Law 106-113 made a number of changes to the Act affecting Medicare payments to hospitals for inpatient services. Many of the provisions of Public Law 106-113 are modifications to provisions of the Act included in the Balanced Budget Act of 1997 (Pub. L. 105-33). Some of the provisions of Public Law 106-113 became effective prior to, or shortly after, its passage on November 29, 1999. Other provisions do not become effective until Federal fiscal year (FY) 2001 or later. The provisions of Public Law 106-113 that are effective beginning October 1, 2000, were included in the proposed rule for FY 2001 Medicare hospital inpatient prospective payment system published in the **Federal Register** on May 5, 2000 (65 FR 26281) which is being finalized in this issue of the **Federal Register**.

The following is a summary of the policy changes we are implementing in this interim final rule with comment period as a result of Public Law 106-113:

A. Changes Relating to Payments for Operating Costs under the Hospital Inpatient Prospective Payment System

- *Reclassification of Certain Counties.* We are implementing the provisions of section 152(a) of Public Law 106-113 that reclassified hospitals in certain designated counties for purposes of making payments to those hospitals under section 1886(d) of the Act for FY 2000. The counties affected by this provision are identified under section III of this preamble.

- *Wage Index.* We are implementing sections 153 and 154 of Public Law 106-113 that contain provisions affecting the wage indexes of specific Metropolitan Statistical Areas (MSA). Under section 153, the Hattiesburg, Mississippi FY 2000 wage index is to be calculated including wage data from Wesley Medical Center. Under section 154, the Allentown-Bethlehem-Easton, Pennsylvania MSA FY 2000 wage index is to be calculated including wage data for Lehigh Valley Hospital.

- *Reclassification of Certain Urban Hospitals as Rural Hospitals.* We are implementing section 401 of Public Law 106-113 which directed the Secretary to treat certain hospitals located in urban areas as being located in the rural area of their State if the hospital meets statutory criteria and files an application with HCFA. This provision is effective on January 1, 2000.

- *Indirect Medical Education (IME) Adjustment.* We are implementing section 111 of Public Law 106-113 which provides for an additional payment to teaching hospitals equal to the additional amount the hospitals would have been paid for FY 2000 if the IME adjustment formula (which reflects the higher indirect operating costs associated with GME) for FY 2000 had remained the same as for FY 1999.

- *Medicare-Dependent, Small Rural Hospitals.* We are implementing section 404 of Public Law 106-113 which extends the Medicare-dependent, small rural hospital (MDH) program and its current payment methodology for an additional 5 years, from FY 2002 through FY 2006.

B. Additional Changes Relating to Direct GME and Indirect Medical Education

- *Initial Residency Period for Child Neurology Residency Programs.* We are implementing section 312 of Public Law 106-113 which provides that in determining the number of residents for purposes of GME and IME payments, the period of board eligibility and the initial residency period for child neurology is the period of board eligibility for pediatrics plus 2 years.

This provision applies on and after July 1, 2000, to residency programs that began before, on, or after November 29, 1999.

- *Residents on Approved Leave of Absences.* We are implementing section 407(a) of Public Law 106-113 which provides that, for purposes of determining a hospital's full-time equivalent (FTE) cap for direct GME payments and the IME adjustment, a hospital may count an individual to the extent that the individual would have been counted as a primary care resident for purposes of the FTE cap but for the fact that the individual was on maternity or disability leave or a similar approved leave of absence. The provision relating to direct GME is effective with cost reporting periods beginning on or after November 29, 1999. The provision relating to the IME adjustment applies to discharges occurring in cost reporting periods beginning on or after November 29, 1999.

- *Expansion of Number of Unweighted Residents in Rural Hospitals.* We are implementing section 407(b) of Public Law 106-113 which provides that a rural hospital's resident FTE count for direct GME and IME may not exceed 130 percent of the number of unweighted residents that the rural hospital counted in its most recent cost reporting period ending on or before December 31, 1996. The provision relating to direct GME applies to cost reporting periods beginning on or after April 1, 2000. The provision relating to the IME adjustment applies to discharges occurring on or after April 1, 2000.

- *Urban Hospitals with Rural Training Tracks or Integrated Rural Tracks.* We are implementing section 407(c) of Public Law 106-113 which allows an urban hospital that establishes separately accredited approved medical residency training programs (or rural training tracks) in a rural area or has an accredited training program with an integrated rural track to receive an FTE cap adjustment for purposes of direct GME and IME. The provision is effective with cost reporting periods beginning on or after April 1, 2000, for direct GME, and with discharges occurring on or after April 1, 2000, for IME.

- *Residents Training at Certain Veterans Affairs Hospitals.* We are implementing section 407(d) of Public Law 106-113 which provides that a non-Veterans Affairs (VA) hospital may receive a temporary adjustment to its FTE cap to reflect residents who were training at a VA hospital and were transferred on or after January 1, 1997, and before July 31, 1998, to the non-VA

hospital because the program at the VA hospital would lose its accreditation by the Accreditation Council on Graduate Medical Education if the residents continued to train at the facility. This provision applies as if it was included in the enactment of Public Law 105-33, that is, for direct GME, with cost reporting periods beginning on or after October 1, 1997, and for IME, for discharges occurring on or after October 1, 1997. If a hospital is owed payments as a result of this provision, payments must be made immediately.

C. Payments for Nursing and Allied Health Education: Utilization of Medicare+Choice Enrollees

We are implementing section 541 of Public Law 106-113 which provides an additional payment to hospitals that receive payments under section 1861(v) of the Act for approved nursing and allied health education programs to reflect utilization of Medicare+Choice enrollees. This provision is effective for portions of cost reporting periods in a year beginning with calendar year 2000.

D. Changes Relating to Hospitals and Hospital Units Excluded From the Prospective Payment System

We are implementing section 121 of Public Law 106-113 which amended section 1886(b)(3)(H) of the Act to direct the Secretary to provide for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals for cost reporting periods beginning on or after October 1, 1999.

E. Changes Relating to Critical Access Hospitals (CAHs)

We are implementing—

- Section 401(b)(2) of Public Law 106-113, which contains a conforming change to incorporate the reclassifications made by section 401(a) of Public Law 106-113 to the CAH criteria (section 1820(c)(2)(B)(i) of the Act). This provision is effective beginning on January 1, 2000.

- Section 403(a) of Public Law 106-113, which deletes the 96-hour length of stay restriction on inpatient care in a CAH and authorizes a period of stay that does not exceed, on an annual, average basis, 96 hours per patient. This provision is effective beginning on November 29, 1999.

- Section 403(b) of Public Law 106-113, which allows for-profit hospitals to qualify for CAH status. This provision is effective beginning on November 29, 1999.

- Section 403(c) of Public Law 106-113, which allows hospitals that have closed within 10 years prior to November 29, 1999, or hospitals that downsized to a health clinic or health center, to be designated as CAHs if they satisfy the established criteria for designation, other than the requirement for existing hospital status.

- Section 403(e) of Public Law 106-113, which eliminates the Medicare Part B deductible and coinsurance for clinical diagnostic laboratory tests furnished by a CAH on an outpatient basis. This provision is effective with respect to services furnished on or after November 29, 1999.

- Section 403(f) of Public Law 106-113, entitled "Participation in Swing Bed Program," which amended sections 1883(a)(1) and (c) of the Act.

F. Changes Relating to Hospital Swing Bed Program

We are implementing section 408(a) of Public Law 106-113 which eliminates the requirement for a hospital to obtain a certification of need to use acute care beds as swing beds for skilled nursing facility (SNF) level of care patients; and section 408(b) of Public Law 106-113 which eliminates constraints on the length of stay in swing beds for rural hospitals with 50 to 100 beds. These provisions are effective on the first day after the expiration of the transition period for prospective payments for covered SNF services under the Medicare program (that is, at the end of the transition period for the SNF prospective payments system that began with the facility's first cost reporting period beginning on or after July 1, 1998 and extend through the end of the facility's third cost reporting period after this date).

III. Reclassification of Certain Counties

Under section 152(a) of Public Law 106-113 hospitals in certain counties are deemed to be located in specified areas for purposes of payment to the hospitals under the hospital inpatient prospective payment system, for discharges occurring during FY 2000. For payment purposes, hospitals under section 152(a) are to be treated as

though they were reclassified for purposes of both the standardized amount and the wage index. We have calculated FY 2000 wage indexes for hospitals in the affected counties. These wage indexes are listed below. No other hospitals' FY 2000 wage indexes were affected, including those hospitals in the areas to which these affected hospitals were reclassified, as well as nonreclassified hospitals located in the areas from which these hospitals were reclassified.

Section 152(a) provides that, for purposes of making payments under section 1886(d) of the Act for FY 2000—

- To hospitals in Iredell County, North Carolina, Iredell County is deemed to be located in the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina MSA;

- To hospitals in Orange County, New York, Orange County is deemed to be located in the New York, New York MSA;

- To hospitals in Lake County, Indiana and Lee County, Illinois, Lake County and Lee County are deemed to be located in the Chicago, Illinois MSA;

- To hospitals in Hamilton-Middletown, Ohio, Hamilton-Middletown is deemed to be located in the Cincinnati, Ohio-Kentucky-Indiana MSA;

- To hospitals in Brazoria County, Texas, Brazoria County is deemed to be located in the Houston, Texas MSA;

- To hospitals in Chittenden County, Vermont, Chittenden County is deemed to be located in the Boston-Worcester-Lawrence-Lowell-Brockton, Massachusetts-New Hampshire MSA.

In accordance with section 153 of Public Law 106-113, for discharges occurring during FY 2000, the Hattiesburg, Mississippi MSA wage index was recalculated by including the wage data for Wesley Medical Center. In accordance with section 154(a), the Allentown-Bethlehem-Easton, Pennsylvania MSA FY 2000 wage index was recalculated by including the wage data for Lehigh Valley Hospital.

The following table shows the changes to the FY 2000 wage index values and geographic adjustment factors for capital payments for the hospitals in the affected areas. Hospitals affected by section 152(a) of Public Law 106-113 will now also be considered reclassified for purposes of the standardized amount.

County or MSA	New MSA (for wage index and standardized amount)	New wage index	New geographic adjustment factor (GAF)
Iredell County, NC	1520	0.9434	0.9609

County or MSA	New MSA (for wage index and standardized amount)	New wage index	New geographic adjustment factor (GAF)
Orange County, NY	5600	1.4342	1.2801
Lake County, IN	1600	1.0750	1.0508
Lee County, IL	1600	1.0750	1.0508
Hamilton-Middletown, OH	1640	0.9419	0.9598
Brazoria County, TX	3360	0.9388	0.9577
Chittenden County, VT	1123	1.1359	1.0912
Hattiesburg, MS MSA	MSA is not new	0.7634	0.8312
Allentown-Bethlehem-Easton, PA MSA	MSA is not new	1.0228	1.0156

IV. Reclassifications of Hospitals (Sections 401(a) and (b) of Public Law 106-113 and 42 CFR 412.63(b), 412.90(e), 412.102, and New 412.103)

A. Permitting Reclassification of Certain Urban Hospitals as Rural Hospitals

Under Medicare law, the location of a hospital can affect its payment methodology as well as whether the facility qualifies for special treatment both for operating and for capital payments. Whether a facility is situated in an urban or a rural area will, for example, affect payments based on the wage index values and Federal standardized amounts specific to the area. Similarly, the percentage increase in payments made to hospitals that treat a disproportionate share of low-income patients is based, in part, on its urban/rural status, as are determinations regarding a hospital's qualification as a sole community hospital (SCH), rural referral center (RRC), CAH, or other special category of facility. Section 1886(d)(2)(D) of the Act defines an "urban area" as an area within a MSA as defined by the Office of Management and Budget. The same provision defines a "large urban area," with respect to any fiscal year, as an urban area that the Secretary determines (in the publications described in section 1886(e)(5) of the Act before the fiscal year) has a population of more than 1 million as determined based on the most recent available published Census Bureau data. Section 1886(d)(2)(D) of the Act further defines a "rural area" as an area that is outside of a "large" urban area or "other" urban area. Since FY 1995, the average standardized amount for hospitals located in rural areas and "other" urban areas has been equal, as provided for in section 1886(b)(3)(B)(i)(X) of the Act.

Several provisions of the Act provide procedures under which a hospital can apply for reclassification from one geographic area to another: section 1886(d)(8)(B) of the Act, which provides that if certain conditions are met, the Secretary shall treat a hospital located in a rural county adjacent to one or

more urban areas as being located in the urban area to which the greatest number of workers in the county commute; and section 1886(d)(10) of the Act, which establishes the Medicare Geographic Classification Review Board (MGCRCB) process to permit hospitals to be reclassified for purposes of the standardized amount or the wage index if they meet criteria established by the Secretary.

Section 401(a) of Public Law 106-113, which amended section 1886(d)(8) by adding a new paragraph (E), directs the Secretary to treat any subsection (d) hospital located in an urban area as being located in the rural area of the State in which the hospital is located if the hospital files an application (in the form and manner determined by the Secretary) and meets one of the following criteria:

- The hospital is located in a rural census tract of a MSA (as determined under the most recent modification of the Goldsmith Modification, originally published in the **Federal Register** on February 27, 1992 (57 FR 6725));
- The hospital is located in an area designated by any law or regulation of the State as a rural area (or is designated by the State as a rural hospital);
- The hospital would qualify as a RRC, or as a SCH if the hospital were located in a rural area; or
- The hospital meets any other criteria specified by the Secretary.

The statutory effective date of this provision is January 1, 2000.

The Goldsmith Modification, one of the qualifying statutory criteria, evolved from an outreach grant program sponsored by the Office of Rural Health Policy of the Health Resources and Services Administration (HRSA). The program's purpose was to establish an operational definition of rural populations lacking easy geographic access to health services. Using 1980 Census Bureau data, Dr. Harold F. Goldsmith and his associates created a methodology for identification of census tracts that were located within a large metropolitan county of at least 1,225 square miles but were so isolated from

the metropolitan core by distance or physical features as to be more rural than urban in character. The most important criterion used to identify these census tracts is the comparatively few residents in these areas, less than 15 percent of the labor force, who commute to work in the metropolitan core and suburbs. Appendix A of this interim final rule with comment period lists the identified urban counties with census tracts that may qualify as rural under the most recent Goldsmith Modification (January 1, 2000). The amendments made by section 401 of Public Law 106-113 enable a hospital located in one of these areas to be treated as if it were situated in the rural area of the State in which it is located. In making determinations under section 1886(d)(8)(E) of the Act, we will utilize the most recent Goldsmith Modification which reflects data based on the 1990 census.

Additionally, section 401(a) of Public Law 106-113 includes hospitals "* * * located in an area designated by any law or regulation of such State as a rural area (or is designated by such State as a rural hospital)." We are requiring that a hospital's designation as rural be in the form of either State law or regulation if it is the basis for a hospital's request for urban to rural reclassification under section 1886(d)(8)(E) of the Act. We believe this will help ensure that the provision is implemented consistently among States.

Finally, a hospital also may seek to qualify for reclassification premised on the fact that, had it been located in a rural area, it would have qualified as an RRC or as an SCH. The hospital would need to satisfy the criteria set forth in section 1886(d)(5)(C) of the Act (as implemented in regulations at § 412.96) as a RRC, or the criteria set forth in section 1886(d)(5)(D) of the Act (as implemented in regulations at § 412.92) as an SCH.

Although the statute authorizes the Secretary to specify further qualifying criteria for a section 1886(d)(8)(E) reclassification, we do not believe that additional criteria are warranted at this

time. However, we invite comment specifically on whether the criteria in this interim final rule are sufficient at this time, and if not, what additional criteria should be incorporated.

Section IV.C. of this preamble contains information on the application process for requesting reclassification under the section 401 provision.

A hospital that is reclassified as rural under section 1886(d)(8)(E) of the Act, as added by section 401(a) of Public Law 106–113, is treated as rural for all purposes of payment under the Medicare inpatient hospital prospective payment system (section 1886(d) of the Act), including standardized amount (§§ 412.60 *et seq.*), wage index (§ 412.63), and disproportionate share calculations (§ 412.106) as of the effective date of the reclassification.

B. Conforming Changes Under Section 401(b) of Public Law 106–113

Section 401(b) of Public Law 106–113 sets forth conforming statutory changes relating to urban to rural reclassifications under section 401(a) of Public Law 106–113:

- Section 401(b)(1) provides that if a hospital is being treated as being located in a rural area under section 1886(d)(8)(E) of the Act (for purposes of section 1886(d) of the Act), the hospital will also be treated under section 1833(t) of the Act as being located in a rural area. This provision is being addressed in a separate document.

- Section 401(b)(2) amends section 1820(c)(2)(B)(i) of the Act by extending the reclassification provisions of section 401(a) to the CAH program. A hospital that otherwise would have fulfilled the requirements for designation as a CAH had it been located in a rural area is now eligible for consideration as a CAH if it is treated as being located in a rural area under section 1886(d)(8)(E) of the Act, as added by section 401(a) of Public Law 106–113. (A list of certain existing hospitals that have been identified as being located in Goldsmith areas is included in Appendix B of this interim final rule with comment period.) A more detailed discussion of the effect on the CAH program in light of this provision, as well as the additional amendments to section 1820(c)(2)(B)(i) of the Act included in Public Law 106–113, is provided in section X.B. of this preamble.

C. Application Procedures

The statute provides that a hospital seeking reclassification from urban to rural under section 1886(d)(8)(E) of the Act must submit an application “in a form and manner determined by the Secretary.” We are providing that a

facility seeking reclassification under section 401(a) or (b) of Public Law 106–113 must apply in writing to the HCFA Regional Office and include documentation satisfying the criteria on which its request is based. For information about where to submit an application, hospitals may contact their fiscal intermediaries or utilize the HCFA website at <www.hcfa.gov/medicare/regions/default.htm>. The application must be mailed; facsimile or other electronic means are not acceptable.

1. Qualification Through the Goldsmith Modification Criteria

We are specifying that hospitals seeking reclassification through the Goldsmith Modification criteria must include specific census tract information with their application that can be obtained through the following steps:

(a) The hospital must determine whether it is located within one of the urban counties containing one or more Goldsmith areas included in Appendix A of this interim final rule with comment period.

(b) Since only certain census tracts within these listed counties qualify as Goldsmith areas, a hospital that identifies its county in the listing must find the tract number assigned to its specific street location by the U.S. Census Bureau. One way to determine this is through an interactive website provided by the U.S. Census Bureau: <<http://tier2.census.gov/ctsl/ctsl.htm>>.

(c) The hospital must include the 4-digit census tract number in its application to the HCFA Regional Office. The HCFA Regional Office will utilize census tract data to determine whether the census tract in which the hospital is located is situated in a Goldsmith area.

2. Qualification by State Designation

For hospitals selecting reclassification under qualification by State designation, we are providing that the hospital’s application must include a copy of the State law or regulation that verifies either the requesting hospital is situated in an area designated rural by the State or that the hospital has been designated as a rural hospital. The application must also note the effective date of the rural designation.

3. Qualification as an RRC or as an SCH

For hospitals seeking reclassification under qualification as an RRC or as an SCH, we are providing that the hospital’s application must include documentation that supports the hospital’s assertion that, other than its urban location, it satisfies the criteria set

forth in section 1886(d)(5)(C) of the Act as an RRC, as implemented in regulations at § 412.90; or as an SCH as set forth in section 1886(d)(5)(D) of the Act and implemented in regulations at § 412.92. The HCFA Regional Office will review the application in a manner consistent with its current procedures in the case of a hospital in a rural area that applies for RRC or SCH status (except for the requirement that the hospital be located in a rural area).

D. Filing and Effective Dates

We are establishing the date of receipt of the application by the HCFA Regional Office as the filing date. The HCFA Regional Office will review the application and forward its approval or disapproval to the hospital within 60 calendar days from the filing date. The HCFA Regional Office also will forward a copy of its decision to the HCFA Central Office and the fiscal intermediary. A hospital that satisfies any of the criteria for rural reclassification under section 401(a) of Public Law 106–113 will be treated as being located in the rural area of the State in which it is located as of its application filing date.

The statutory effective date of the amendments made by section 401 of Public Law 106–113 is January 1, 2000. To allow hospitals a grace period for filing applications to accommodate this effective date, we are providing that a qualifying hospital whose application is received by HCFA on or before September 1, 2000, will be considered as being located in the rural area of its State for purposes of section 1886(d) of the Act as of January 1, 2000. Following that grace period, a hospital’s filing date is the date on which a complete application is received by HCFA. A qualifying hospital that bases its application for rural reclassification under section 1886(d)(8)(E) of the Act on its satisfaction of either SCH or RRC criteria, and that files on or before September 1, 2000, will benefit from the grace period and will be considered as being located in the rural area of its State as of January 1, 2000, unless the hospital withdraws its request as described in section IV.D.3 of this preamble. Once the hospital is rural, it may seek either an SCH or an RRC status by following a two-step process described respectively, in sections IV.D.1 and IV.D.2 of this preamble. The process for approval of the hospital as either an SCH or an RRC must be consistent with the processes currently in place for approving these applications. We note that whereas SCH designation is effective 30 days after written notification of HCFA’s approval,

under § 412.92(b)(2)(i), the effective date of RRC designation, under 1886(d)(5)(C)(i) of the Act, is linked to the beginning of a hospital's reporting period.

1. A Hospital Reclassified as Rural Seeking Designation as an SCH

A hospital that bases its application for rural reclassification on its satisfaction of all SCH criteria set forth in § 412.92, except rural location, may seek subsequent designation as an SCH if HCFA determines that it qualifies to be treated as rural under section 1886(d)(8)(E) of the Act. The hospital must indicate this intent on its application for rural reclassification. Designation as an SCH for such hospital, therefore, would be a two-step process: (1) The hospital's reclassification as rural for all payment purposes as of its filing date under section 1886(d)(8)(E) of the Act; and (2) the now-rural hospital's request for SCH status, which would be effective 30 days following the date of HCFA's written notification of approval, as set forth in the regulations at § 412.92(b)(2)(i).

In order to implement section 401(a) of Public Law 106-113 in the most expeditious and efficient manner, allowing for necessary payment system modifications, for the grace period which extends from January 1, 2000 to September 1, 2000, we are bundling the above two operations: the rural reclassification of a hospital, under section 401(a) of Public Law 106-113, and the designation of the hospital as an SCH. A hospital that has applied for rural status based on its eligibility as an SCH and also is applying to become an SCH, will be granted SCH status as of January 1, 2000, if it satisfies the conditions for SCH designation in § 412.92, except for rural location as of January 1, 2000, and its application is filed by September 1, 2000.

2. Hospitals Reclassified as Rural Seeking Designation as a RRC

A hospital qualifying for rural reclassification under section 401(a) of Public Law 106-113 because it satisfies RRC criteria under § 412.96, except for rural location, will be considered rural for all payment purposes as of January 1, 2000, if its application is received by September 1, 2000. After September 1, 2000, when the grace period expires, the filing date is the date HCFA receives the hospital's complete application. If the hospital seeks designation as a RRC, the hospital must state its intent to apply for RRC status on its application for rural reclassification under section 1886(d)(8)(E) of the Act. Designation as an RRC for such a hospital, therefore, is

a two-step process: (1) The hospital's classification as rural for all payment purposes as of its filing date under section 1886(d)(8)(E) of the Act; and (2) the now rural hospital's request for RRC status by way of a letter to the Regional Office during the quarter preceding the start of a cost reporting period, referencing the data it previously submitted for rural status. If approved, the hospital is designated an RRC at the start of the hospital's next cost reporting period under section 1886(d)(5)(C)(i) of the Act (55 FR 36059). Therefore, whereas the grace period would grant rural status under section 1886(d)(8)(E) of the Act to such a hospital filing on or before September 1, 2000, statutory requirements preclude us from granting RRC status simultaneously as we are able to do in the case of SCHs described above.

3. Withdrawal of an Application for Rural Reclassification

A hospital may withdraw an application for rural reclassification at any time prior to the date of HCFA's decision on whether or not the hospital qualifies for rural reclassification under section 1886(d)(8)(E) of the Act.

4. Cancellation of Rural Reclassification

We are specifying that a hospital seeking cancellation of rural status established under section 1886(d)(8)(E) of the Act must submit its written request to HCFA not less than 120 days prior to the end of its current cost reporting period. With the beginning of the hospital's next cost reporting period, the hospital will be treated as being located in an urban area.

E. Changes in the Regulations

We are adding a new § 412.103 to incorporate the provisions on the urban to rural reclassification options set forth in section 1886(d)(8)(E) of the Act, as added by section 401(a) of Public Law 106-113, and the application procedures for requesting reclassification. A formula for transition payments to hospitals located in an area that has undergone geographic reclassification from urban to rural is set forth in section 1886(d)(8)(A) of the Act and implemented in regulations at §§ 412.90 and 412.102. We are revising existing §§ 412.63(b)(1) and 412.90(e) and the title of § 412.102 to clarify the distinction between hospital reclassification from urban to rural and the geographic reclassification (or redesignation) of an urban area to rural.

We are revising § 485.610 by redesignating paragraph (b)(4) as paragraph (b)(5) and adding a new paragraph (b)(4) to reflect the

conforming provision of section 401(b)(2) of Public Law 106-113.

V. Medicare-Dependent, Small Rural Hospitals (Section 404 of Public Law 106-113 and 42 CFR 412.90(j) and 412.108)

Section 404 of Public Law 106-113 added a 5-year extension of the Medicare-dependent, small rural hospital (MDH) program (FY 2002 through FY 2006). This category of hospitals was originally created by section 6003(f) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), which added section 1886(d)(5)(G) to the Act.

As set forth in section 1886(d)(5)(G) of the Act, in order to be classified as an MDH, a hospital must meet all of the following criteria:

- The hospital is located in a rural area.
- The hospital has 100 or fewer beds.
- The hospital is not classified as an SCH (as defined at § 412.92).
- In the hospital's cost reporting period that began during FY 1987, not less than 60 percent of its inpatient days or discharges were attributable to inpatients entitled to Medicare Part A benefits.

As provided by the law, MDHs were eligible for a special payment adjustment under the prospective payment system, effective for cost reporting periods beginning on or after April 1, 1990 and ending on or before March 31, 1993. Hospitals classified as MDHs were paid using the same methodology applicable to SCHs, that is, based on whichever of the following rates yielded the greatest aggregate payment for the cost reporting period:

- The national Federal rate applicable to the hospital.
- The updated hospital-specific rate using FY 1982 cost per discharge.
- The updated hospital-specific rate using FY 1987 cost per discharge.

Section 13501(e)(1) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) extended the MDH provision through FY 1994 and provided that, after the hospital's first three 12-month cost reporting periods beginning on or after April 1, 1990, the additional payment to an MDH whose applicable hospital-specific rate exceeded the Federal rate was limited to 50 percent of the amount by which the hospital-specific rate exceeded the Federal rate.

Section 4204(a)(3) of Public Law 105-33 reinstated the MDH special payment for discharges occurring on or after October 1, 1997 and before October 1, 2001, but did not revise either the

qualifying criteria for these hospitals or the payment methodology.

Section 404(a) of Public Law 106–113 extended the MDH provision to discharges occurring on or after October 1, 2002 and before October 1, 2006.

We are revising §§ 412.90(j) and 412.108 to reflect the extension of the MDH program.

VI. Changes to the IME Adjustment (Section 111 of Public Law 106–113 and 42 CFR 412.105(d)(3))

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals that have residents in an approved GME program receive an additional payment to reflect the higher indirect operating costs associated with GME. The regulations regarding the calculation of this additional payment, known as the IME adjustment, are located at § 412.105.

Section 111(a) of Public Law 106–113 amended section 1886(d)(5)(B) of the Act by modifying the transition for the IME adjustment. The IME adjustment factor is calculated using a formula multiplier that is represented as c in the following equation: $c \times [(1 + r)^{.405} - 1]$. The variable r represents the hospital's resident-to-bed ratio.

Public Law 105–33 established the formula multiplier for discharges occurring during FY 2000 at 1.47. However, section 111(b) of Public Law 106–113 provides for special payments to each hospital to reflect the amount of IME payments if c equaled 1.6 for discharges occurring during FY 2000, rather than 1.47. In accordance with section 111(b)(2) of Public Law 106–113, these special payments will not affect any other payments, determinations, or budget neutrality adjustments under section 1886(d) of the Act.

Under amendments enacted by section 111(a) of Public Law 106–113, for discharges occurring during FY 2001, the formula multiplier is 1.54. Changes to the factor for discharges occurring in FY 2001 were addressed in the proposed rule on FY 2001 hospital inpatient prospective payment system rates and changes that was published in the **Federal Register** on May 5, 2000 (65 FR 26281) and that will be finalized by August 1, 2000. Changes to the factor for discharges occurring in FY 2002 and thereafter are discussed in the final rule to be published by August 1, 2000.

We are amending § 412.105(d)(3) to reflect the additional payment provided for discharges occurring during FY 2000 under section 111(b)(1) of Public Law 106–113.

VII. Payment for Costs of GME

Under section 1886(h) of the Act, Medicare pays hospitals for the direct costs of GME. The payments are based on the number of residents trained by the hospital. Section 1886(h) of the Act, as revised by Public Law 105–33, caps the number of residents a hospital may count for direct GME and IME. In general, the total number of residents in the fields of allopathic or osteopathic medicine in a hospital may not exceed the number of such FTE residents in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996. In the regulations we published on August 29, 1997 (62 FR 46003), May 12, 1998 (63 FR 26327), July 31, 1998 (63 FR 40986), and July 30, 1999 (64 FR 41517), we established special rules for adjusting the FTE resident caps for indirect and direct GME for new medical residency programs. Public Law 106–113 further revised sections 1886(d) and 1886(h) of the Act to allow a hospital's caps to be adjusted if certain additional criteria are met.

A. Counting Primary Care Residents on Certain Approved Leaves of Absence in Base-Year FTE Count (Section 407(a)(1) of Public Law 106–113 and new 42 CFR 412.105(f)(1)(xi) and 413.86(g)(9))

The limit that was placed on the number of residents that a hospital may count for purposes of direct GME and IME is based on the number of residents in the hospital's most recent cost reporting period ending on or before December 31, 1996. In the situation where a primary care resident was previously training in a hospital's residency program, but was on an approved leave of absence during the hospital's most recent cost reporting period ending on or before December 31, 1996, the hospital's FTE cap may be lower than it would have been had the resident not been on an approved leave of absence. Section 407(a) of Public Law 106–113 amended section 1886(h)(4)(F) of the Act to direct the Secretary to count an individual for purposes of determining a hospital's FTE cap, to the extent that the individual would have been counted as a primary care resident for purposes of the FTE cap but for the fact that the individual was on maternity or disability leave or a similar approved leave of absence.

The statute allows a hospital to receive an adjustment for those residents to its individual FTE cap of up to three additional FTE residents. We are providing in this interim final rule with comment period that, in order for a hospital to receive this adjustment, the

leave of absence must have been approved by the residency program director to allow the residents to be absent from the program and return to the program after the absence. We are requiring that no later than 6 months after the date of publication of this interim final rule, the hospital must submit a request to the fiscal intermediary for an adjustment to its FTE cap and must provide contemporaneous documentation of the approval of the leave of absence by the residency program director, specific to each additional resident that is to be counted for purposes of the adjustment. For example, a letter to the resident by the residency program director before the resident takes the leave would be sufficient documentation of prior approval of the leave of absence.

Under section 407(a)(3) of Public Law 106–113, this provision is effective for direct GME FTE counts with cost reporting periods beginning on or after November 29, 1999, and for IME FTE counts, with discharges occurring in cost reporting periods beginning on or after November 29, 1999.

We are adding new §§ 412.105(f)(1)(xi) and 413.86(g)(9) to incorporate the provisions of section 407(a) of Public Law 106–113.

B. Adjustments to the FTE Cap for Rural Hospitals (Section 407(b)(1) of Public Law 106–113 and 42 CFR 412.105(f)(1)(iv) and 413.86(g)(4))

Public Law 105–33 included several provisions with the intent of encouraging physician training and practice in rural areas. Section 1886(h)(4)(H)(i) of the Act, as added by section 4623 of Public Law 105–33, directed the Secretary, in promulgating rules for the purpose of the FTE cap, to give special consideration to facilities that meet the needs of underserved rural areas. Consistent with the intent of this provision, section 407(b) of Public Law 106–113 provides a 30-percent expansion of a rural hospital's direct and indirect FTE count for purposes of establishing the hospital's individual FTE cap. Specifically, section 407(b) provides that, effective for direct GME with cost reporting periods beginning on or after April 1, 2000, and for IME, with discharges occurring on or after April 1, 2000, the FTE count may not exceed 130 percent of the number of unweighted residents the rural hospital counted in its most recent cost reporting period ending on or before December 31, 1996.

For example, if a hospital located in a rural area had 10 unweighted FTEs for its count for both direct GME and IME in its most recent cost reporting period

ending on or before December 31, 1996, under this new provision the hospital would have a FTE cap of 13 unweighted FTEs, instead of 10 unweighted FTEs, because the hospital is located in a rural area. The revised FTE cap is equal to 130 percent of the number of unweighted residents in its most recent cost reporting period ending on or before December 31, 1996. The rural hospital's new FTE cap, effective April 1, 2000, is now 13 FTEs. However, if a hospital located in a rural area had zero unweighted FTEs for its count for both direct GME and IME in its most recent cost reporting period ending on or before December 31, 1996, under this new provision, this hospital would receive no adjustment to its FTE cap (130 percent of zero is zero FTEs).

We are incorporating the provisions of section 407(b) of Public Law 106-113 in §§ 412.105(f)(1)(iv) and 413.86(g)(4).

C. Rural Track FTE Limitation for Purposes of GME and IME for Urban Hospitals That Establish Separately Accredited Approved Medical Programs in a Rural Area (Section 407(c) of Public Law 106-113 and new 42 CFR 412.105(f)(1)(x) and 413.86(g)(11))

Section 407(c) of Public Law 106-113 amended section 1886(h)(4)(H) of the Act to add a provision that, in the case of a hospital that is not located in a rural area but establishes separately accredited approved medical residency training programs (or rural tracks) in a rural area or has an accredited training program with an integrated rural track, an adjustment may be made to the hospital's cap on the number of residents in order to encourage the training of physicians in rural areas. For direct GME, the amendment applies to payments to hospitals for cost reporting periods beginning on or after April 1, 2000; for IME, the amendment applies to discharges occurring on or after April 1, 2000.

Section 407(c) of Public Law 106-113 does not define "rural tracks" or an "integrated rural track," nor are these terms defined elsewhere in the Social Security Act or in any applicable Federal regulations. Currently, there are a number of accredited residency programs, particularly 3-year primary care residency programs, in which residents train for 1 year of the program at an urban hospital and are then rotated for training for the other 2 years of the 3-year program to a rural facility. These separately accredited "rural track" programs are identified by the Accreditation Council of Graduate Medical Education (ACGME) as "1-2" rural track programs. We are implementing section 407(c) to address

these "1-2" programs. In addition, we are implementing section 407(c) to account for other programs that are not "1-2" programs but which include rural training portions.

As stated above, there is no existing definition of "rural track" or "integrated rural track." We are defining at § 413.86(b) a "rural track" and an "integrated rural track" as an approved medical residency training program established by an urban hospital in which residents train for a portion of the program at the urban hospital and then rotate for a portion of the program to a rural hospital(s) or to a rural nonhospital site(s). We note that "rural track" and "integrated rural track," for purposes of this definition, are synonymous.

We are amending § 413.86 to add paragraph (g)(11) (and amending § 412.105 to add paragraph (f)(1)(x)) to specify that, for direct GME, for cost reporting periods beginning on or after April 1, 2000, (or, for IME, for discharges occurring on or after April 1, 2000), an urban hospital that establishes a new residency program, or has an existing residency program, with a rural track (or an integrated rural track) may include in its FTE count residents in those rural tracks, in addition to the residents subject to the FTE cap at § 413.86(g)(4). An urban hospital may count the residents in the rural track up to a "rural track FTE limitation" for that hospital. We are defining this rural track FTE limitation at § 413.86(b) as the maximum number of residents (as specified at § 413.86(g)(11)(i) through (vi)) training in a rural track residency program that an urban hospital may include in its FTE count, that is in addition to the number of FTE residents already included in the hospital's FTE cap.

Generally, the rural track policy is divided into two categories: Rural track programs in which residents are rotated to a rural area for at least two-thirds of the duration of the program; and rural track programs in which residents are rotated to a rural area for less than two-thirds of the duration of the program. These two categories are then subdivided according to where the residents are training in the rural area; the residents may be trained in a rural hospital or the residents may be trained in a rural nonhospital site. To account for rural track residency programs with rural rotations that have program lengths greater than or less than 3 years, or that are not "1-2" programs, we are specifying "two-thirds of the length of the program," instead of "2 out of 3 program years," as a qualification to count FTEs in the rural track.

We are specifying that urban hospitals that wish to count FTE residents in rural tracks, up to a rural track FTE limitation, must comply with the conditions discussed below:

1. Rotating Residents for at Least Two-Thirds of the Program to a Rural Hospital(s)

We are specifying at § 413.86(g)(11)(i) that if an urban hospital rotates residents in the rural track program to a rural hospital(s) for at least two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count for the time the rural track residents spend at the urban hospital. The urban hospital may include in its FTE count those residents in the rural track training at the urban hospital, not to exceed its rural track FTE limitation, determined as follows:

- For the first 3 years of the rural track's existence, the rural track FTE limitation for each urban hospital will be the actual number of FTE residents training in the rural track at the urban hospital.
- Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of: (a) The highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at the urban hospital or the rural hospital(s) and are designated at the beginning of their training to be rotated to the rural hospital(s) for at least two-thirds of the duration of the program; and (b) the number of years those residents are training at the urban hospital.

We are utilizing the term "designated" at § 413.86(g)(11)(i) (as well as at §§ 413.86(g)(11)(ii) and (iv)) to refer to the calculation of the rural track FTE limitation. "Designated" means that the residents must actually have enrolled in that rural track program to rotate for a portion of the rural track program to a rural area (either rural hospital(s) or rural nonhospital site(s)). To be counted as an FTE in this first scenario, these enrolled residents must actually rotate for at least two-thirds of the duration of the program to a rural hospital(s). If a resident, at the beginning of his or her training, intends to train in the rural area for at least two-thirds of the duration of the program, but ultimately never does so, this resident would be proportionately excluded from the urban hospital's FTE count and rural track FTE count.

We note that if the residents in the rural track are rotating to a rural hospital(s), the rural hospital(s) may be eligible to count the residents as part of

its FTE count. If the rural track residency program is a new residency program as specified in redesignated § 413.86(g)(12), the rural hospital may be eligible to receive an FTE cap adjustment for those residents training in the rural track for the time those residents are training at the rural hospital(s), in accordance with the provisions of existing § 413.86(g)(6)(iii). If the rural track residency program is an existing residency program, a rural hospital may be eligible to count the FTE residents training in the rural track at the rural hospital(s), in accordance with the provisions of § 413.86(g)(4), as amended in this interim final rule to implement section 407(b)(1) of Public Law 106-113.

2. Rotating Residents for at Least Two-Thirds of the Program to a Rural Nonhospital Site

We are specifying at § 413.86(g)(11)(ii) that if an urban hospital rotates residents in the rural track program to a rural nonhospital site(s) for at least two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count, subject to the requirements under existing § 413.86(f)(4). The urban hospital may include in its FTE count those residents in the rural track, not to exceed its rural track FTE limitation, determined as follows:

- For the first 3 years of the rural track's existence, the rural track FTE limitation for each urban hospital will be the actual number of FTE residents training in the rural track at the urban hospital and the rural nonhospital site.
- Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of: (a) The highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at the urban hospital and are designated at the beginning of their training to be rotated to a rural nonhospital site(s) for at least two-thirds of the duration of the program and the rural nonhospital site(s); and, (b) the number of years in which the residents are expected to complete each program based on the minimum accredited length for the type of program.

We note that we specify at § 413.86(g)(11)(ii) that an urban hospital may include in its FTE count those residents in the rural track rotating to a rural nonhospital site, subject to the requirements under § 413.86(f)(4). The regulations at § 413.86(f)(4) provide, in part, that a hospital that incurs "all or substantially all" of the costs of training residents in a nonhospital site may

include those residents in determining the number of FTE residents (not to exceed the FTE cap) for that hospital. Under this new rural track policy, where the urban hospital rotates residents for at least two-thirds of the residency program to a rural nonhospital site, the urban hospital would be eligible to include in its FTE count residents training in the rural track up to its rural track FTE limitation, but the urban hospital must still reimburse the rural nonhospital site for the costs of training those residents, as specified under § 413.86(f)(4).

An example of this second scenario is where urban hospital A has a new internal medicine residency program that was established July 1, 1998, and rotates six PGY (program year) 2s and five PGY 3s in the third year of the program to rural nonhospital site B. In the third year of the program, five PGY 1s who will subsequently rotate to the rural nonhospital site are training at hospital A. If hospital A is complying with the requirements at § 413.86(f)(4) by incurring all or substantially all of the cost of the training at rural nonhospital site B, beginning with the fourth year of the program, hospital A will receive a rural track FTE limitation of 18 FTEs, because the highest number of residents training at either hospital A or rural nonhospital site B is six PGY 2s at rural nonhospital site B and the minimum accredited length for internal medicine is 3 years (thus, six PGY 2s × 3 years = 18 FTEs). (Note that for the first 3 years of the new rural track program, the actual count of residents training in the rural track at both hospital A and rural nonhospital site B will be hospital A's rural track FTE count (and rural track FTE limitation for the first 3 years of the new rural track program).)

3. Rotating Residents for Less Than Two-Thirds of the Program to a Rural Hospital(s)

We are specifying at § 413.86(g)(11)(iii) that if an urban hospital rotates residents in the rural track program to a rural hospital(s) for periods of time that are less than two-thirds of the duration of the program, the urban hospital may not include those residents in its FTE count (if the urban hospital FTE count exceeds the urban hospital FTE cap), nor may the urban hospital include those residents when calculating its rural track FTE count. However, we note that, in this scenario, if the rural track residency program is a new residency program as specified in redesignated § 413.86(g)(12), the rural hospital may be eligible to receive an FTE cap

adjustment for those residents training in the rural track, in accordance with the provisions of existing § 413.86(g)(6)(iii). If the rural track residency program is an existing residency program, a rural hospital may count the FTE residents training in the rural track at the rural hospital(s), in accordance with the provisions of § 413.86(g)(4), as amended, to incorporate the provisions of section 407(b)(1) of Public Law 106-113.

We are not permitting an urban hospital to count the FTE of residents in a rural track rotating to a rural hospital(s) for less than two-thirds the duration of the program (either as part of the urban hospital's FTE count or as part of its rural track FTE limitation), because to do so would inappropriately allow the urban hospital to circumvent the FTE caps (assuming the urban hospital's FTE count exceeds its FTE cap) by creating a new program with minimal training in a rural track. However, in this situation, like the other three provisions that concern the training of residents in rural areas, we will allow Medicare payment for the rural portion of the training to the rural hospital.

4. Rotating Residents for Less Than Two-Thirds of the Program to a Rural Nonhospital Site

We are specifying at § 413.86(g)(11)(iv) that if an urban hospital rotates residents in the rural track program to a rural nonhospital site(s) for periods of time that are less than two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count, subject to the requirements under existing § 413.86(f)(4). The urban hospital may include in its FTE count those residents in the rural track, not to exceed its rural track FTE limitation, determined as follows:

- For the first 3 years of the rural track's existence, the rural track FTE limitation for the urban hospital will be the actual number of FTE residents training in the rural track at the rural nonhospital site.
- Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of: (a) the highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at the rural nonhospital site(s); and (b) the length of time in which the residents are being trained at the rural nonhospital site(s).

We note that, in this situation, an urban hospital would not be able to count the FTE for the rural track

resident while the resident is training at the urban hospital (unless the urban hospital's FTE count does not exceed its FTE cap). The rural track FTE count and the rural track FTE limitation for the urban hospital would be limited to account for the residents training at the rural nonhospital site.

As in the second scenario at new § 413.86(g)(11)(ii), we are specifying at § 413.86(g)(11)(iv) that an urban hospital may include in its FTE count those residents in the rural track rotating to a rural nonhospital site, subject to the requirements under § 413.86(f)(4). Under this new rural track policy, where the urban hospital rotates residents for less than two-thirds of the residency program to a rural nonhospital site, the urban hospital would be eligible to include in its FTE count residents training in the rural track up to its rural track FTE limitation, but the urban hospital must still reimburse the rural nonhospital site for the costs of training those residents, as specified under § 413.86(f)(4).

We note that, in this last scenario, we are allowing the urban hospital to receive a rural track FTE limitation even in situations where it is rotating residents to a rural area for a minimal period of time (less than two-thirds the duration of the program). We believe that this last scenario can be distinguished from the third scenario in which the urban hospital is rotating residents to a rural area for a minimal portion of the program but to a rural hospital instead of a rural nonhospital site. In the third scenario, we are allowing Medicare payment to go to the rural hospital for the portion of the urban hospital program that involves rural training (but not to the urban hospital, since the rural hospital is receiving an FTE cap adjustment for that training). However, in the last scenario, we are allowing the urban hospital to include the rural track residents in its FTE count (and as part of its rural track FTE limitation), based on how long it rotates the residents to the rural nonhospital site (and also incurs all or substantially all of the training costs). We do not believe that the urban hospital can circumvent its FTE cap in this last scenario because it will only count the rural track residents based on the portion of training in the rural nonhospital site (assuming the urban hospital's FTE count exceed its FTE cap).

An example of this last scenario would be in the situation where urban hospital C establishes a new residency program in FY 2001 by training six PGY 1s in the first year of the program's existence at the urban hospital. In the

second year of the program, urban hospital C trains six PGY 1s and rotates the (now) six PGY 2s to rural nonhospital site D. In the third year of the program, urban hospital C trains seven PGY 1s, zero PGY 2s (rotating the six PGY 2s to rural nonhospital site D) and six PGY 3s. Urban hospital C would receive a rural track FTE limitation of zero FTEs in the first year of the program's existence, since urban hospital C did not rotate any residents to a rural nonhospital site in that first year; in the second year of the program, urban hospital C may count six FTE residents above its FTE cap as its second year rural track FTE limitation, since it rotated six PGY 2s to rural nonhospital site D in that second year; in the third year of the program, urban hospital C may count six FTE residents above its FTE cap as its third year rural track FTE limitation, as well, since it rotated six PGY 2s to the rural nonhospital site D in the third year. Finally, beginning with the fourth year of the rural track program's existence, urban hospital C will receive a rural track FTE limitation of seven FTEs (seven PGY 1 residents training at urban hospital C that are designated to rotate for one year of their training to rural nonhospital site D × 1 year of training at rural nonhospital site D), assuming urban hospital C complies with the requirements at § 413.86(f)(4) that urban hospital C incurs all or substantially all of the costs of training the six residents in rural nonhospital site D.

5. Conditions That Apply to All Urban Hospitals

We are specifying that all urban hospitals that wish to count FTE residents in rural tracks, not to exceed their respective rural track FTE limitations, must comply with each of the following conditions, as stated at §§ 413.86(g)(11)(v) and (vi):

(a) A hospital may not include in its rural track limitation or its FTE count (assuming the hospital's FTE count exceeds its cap), FTE residents who are training in a rural track residency program that were already included as part of the hospital's FTE cap (if the rural track program was in existence during the hospital's most recent cost reporting period ending on or before December 31, 1996).

(b) A hospital must base its count of residents in a rural track on written contemporaneous documentation that each resident enrolled in a rural track program at the urban hospital intends to rotate for a portion of the residency program to a rural area. For example, written contemporaneous documentation might be a letter of

intent signed and dated by the rural track residency program director and the resident at the time of the resident's entrance into the rural track program as a PGY 1.

(c) All residents who are included by the hospital as part of its FTE count (not to exceed its rural track FTE limitation) must ultimately train in the rural area.

(d) If HCFA finds that residents who are included by the urban hospital as part of its FTE count did not actually complete the training in the rural area, HCFA will reopen the urban hospital's cost report within the 3-year reopening period (as specified in § 405.1885) and adjust the hospital's Medicare GME payments (and, where applicable, the hospital's rural track FTE limitation).

D. Not Counting Against Numerical Limitation Certain Residents Transferred From a Department of Veterans Affairs Hospital's Residency Program That Loses Accreditation (Section 407(d) of Public Law 106-113 and new 42 CFR 412.105(f)(1)(xii) and 413.86(g)(10))

Section 407(d) of Public Law 106-113 addresses the situation where residents were training in a residency training program at a Veterans Affairs (VA) hospital and then were transferred on or after January 1, 1997, and before July 31, 1998, to a non-VA hospital because the program in which the residents were training would lose its accreditation by the ACGME if the residents continued to train at the VA hospital. In this situation, the non-VA hospital may receive a temporary adjustment to its FTE cap to reflect those residents who were transferred to the non-VA hospital for the duration that those transferred residents were training at the non-VA hospital. We are specifying that, in order to receive this adjustment, the non-VA hospital must submit a request to its fiscal intermediary for a temporary adjustment to its FTE cap, document that the hospital is eligible for this temporary adjustment by identifying the residents who have come from the VA hospital, and specify the length of time the adjustment is needed.

We note that section 407(d) of Public Law 106-113 only refers to programs that would lose their accreditation by the ACGME. This provision does not apply to accreditation by the American Osteopathy Association (AOA), the American Podiatry Association (APA), or the American Dental Association (ADA).

Under section 407(d)(3) of Public Law 106-113, this policy is effective as if included in the enactment of Public Law 105-33, that is, for direct GME, with cost reporting periods beginning

on or after October 1, 1997, and for IME, discharges occurring on or after October 1, 1997. If a hospital is owed payments as a result of this provision, payments must be made immediately.

We are adding new §§ 412.105(f)(1)(xii) and 413.86(g)(10) to incorporate the provisions of section 407(d) of Public Law 106-113.

E. Initial Residency Period for Child Neurology Residency Programs (Section 312 of Public Law 106-113 and 42 CFR 413.86(g)(1))

Generally, section 1886(h)(5)(F) of the Act defines the term "initial residency period" to mean the "period of board eligibility." The period of board eligibility is defined in section 1886(h)(5)(G) of the Act as the period recognized by ACGME as specified in the *Graduate Medical Education Directory* which is published by the American Medical Association. The initial residency period limitation was designed to limit full Medicare payment for direct GME to the time required to train in a single specialty. Therefore, the initial residency period is determined based on the minimum time required for a resident to become board eligible in a specialty and the published periods included in the *Graduate Medical Education Directory*. During the initial residency period, the residents are weighted at 1.0 FTE for purposes of Medicare payment. Residents seeking additional specialty or subspecialty training are weighted at 0.5 FTE.

In order to become board eligible in child neurology, residents must complete training in more than one specialty. Thus, for example, before the effective date of section 312 of Public Law 106-113, if a resident enrolled in a child neurology residency program by first completing 2 years of training in pediatrics (which is associated with a 3-year initial residency period), followed by 3 years of training in child neurology, the resident would be limited by the initial residency period of pediatrics. Section 312 of Public Law 106-113 amended section 1886(h)(5) of the Act by adding at the end a clause (v) which states that "in the case of a resident enrolled in a child neurology residency training program, the period of board eligibility and the initial residency period shall be the period of board eligibility for pediatrics plus 2 years." (The initial residency period for pediatrics is currently 3 years). The amendments made by section 312(a) of Public Law 106-113 applies to future child neurology residents and to child neurology residents who have already begun their training (for whom an initial residency period was already

established). However, it does not apply to residents who have completed their child neurology training before July 1, 2000.

We are revising § 413.86(g)(1) to reflect that, effective on or after July 1, 2000, for residency programs that began before, on, or after November 29, 1999, the period of board eligibility and the initial residency period for child neurology is now the period of board eligibility for pediatrics plus 2 years. We note that the initial residency period is the same for all child neurology residents, regardless of whether or not the resident completes the first year of training in pediatrics or neurology.

Following are four examples of how a child neurology resident's FTE status would be determined:

Example 1: Assume the resident completes 2 years of training in pediatrics followed by 3 years of training in child neurology.

Before Public Law 106-113:

Year 1: July 1, 1997-June 30, 1998. 1.0 FTE
Year 2: July 1, 1998-June 30, 1999. 1.0 FTE
Year 3: July 1, 1999-June 30, 2000. 1.0 FTE
Year 4: July 1, 2000-June 30, 2001. 0.5 FTE
Year 5: July 1, 2001-June 30, 2002. 0.5 FTE

After Public Law 106-113:

Year 1: July 1, 1997-June 30, 1998. 1.0 FTE
Year 2: July 1, 1998-June 30, 1999. 1.0 FTE
Year 3: July 1, 1999-June 30, 2000. 1.0 FTE
Year 4: July 1, 2000-June 30, 2001. 1.0 FTE
Year 5: July 1, 2001-June 30, 2002. 1.0 FTE

Example 2: Assume the resident completes 2 years of training in pediatrics followed by 3 years of training in child neurology.

Before Public Law 106-113:

Year 1: July 1, 1996-June 30, 1997. 1.0 FTE
Year 2: July 1, 1997-June 30, 1998. 1.0 FTE
Year 3: July 1, 1998-June 30, 1999. 1.0 FTE
Year 4: July 1, 1999-June 30, 2000. 0.5 FTE
Year 5: July 1, 2001-June 30, 2001. 0.5 FTE

After Public Law 106-113:

Year 1: July 1, 1996-June 30, 1997. 1.0 FTE
Year 2: July 1, 1997-June 30, 1998. 1.0 FTE
Year 3: July 1, 1998-June 30, 1999. 1.0 FTE
Year 4: July 1, 1999-June 30, 2000. 0.5 FTE
Year 5: July 1, 2000-June 30, 2001. 1.0 FTE

Example 3: Assume the resident completes 1 year of neurology training, followed by 1 year of pediatrics training, followed by 3 years of child neurology training.

Note: The initial residency period for neurology is currently 4 years.

Before Public Law 106-113:

Year 1: July 1, 1997-June 30, 1998. 1.0 FTE
Year 2: July 1, 1998-June 30, 1999. 1.0 FTE
Year 3: July 1, 1999-June 30, 2000. 1.0 FTE
Year 4: July 1, 2000-June 30, 2001. 1.0 FTE
Year 5: July 1, 2001-June 30, 2002. 0.5 FTE

After Public Law 106-113:

Year 1: July 1, 1997-June 30, 1998. 1.0 FTE
Year 2: July 1, 1998-June 30, 1999. 1.0 FTE
Year 3: July 1, 1999-June 30, 2000. 1.0 FTE
Year 4: July 1, 2000-June 30, 2001. 1.0 FTE
Year 5: July 1, 2001-June 30, 2002. 1.0 FTE

Example 4: Assume the resident completes 1 year of neurology training, followed by 1 year of pediatrics training, followed by 3 years of child neurology training.

Note: The initial residency period for neurology is currently 4 years.

Before Public Law 106-113:

Year 1: July 1, 1996-June 30, 1997. 1.0 FTE
Year 2: July 1, 1997-June 30, 1998. 1.0 FTE
Year 3: July 1, 1998-June 30, 1999. 1.0 FTE
Year 4: July 1, 1999-June 30, 2000. 1.0 FTE
Year 5: July 1, 2000-June 30, 2001. 0.5 FTE

After Public Law 106-113:

Year 1: July 1, 1996-June 30, 1997. 1.0 FTE
Year 2: July 1, 1997-June 30, 1998. 1.0 FTE
Year 3: July 1, 1998-June 30, 1999. 1.0 FTE
Year 4: July 1, 1999-June 30, 2000. 1.0 FTE
Year 5: July 1, 2000-June 30, 2001. 1.0 FTE

F. Technical Amendment

It has come to our attention that the first sentence of existing § 413.86(g)(1) contains a technical error. The first sentence of this paragraph reads "For purposes of this section, an initial residency period is the number of years necessary to satisfy the minimum requirements for certification in a specialty or subspecialty, plus one year." This section of the regulation was revised as a result of section 13563(b) of Public Law 103-66, and was effective only until June 30, 1995. Generally, effective July 1, 1995, an initial residency period is defined as the minimum number of years required for board eligibility. Therefore, we are revising the first sentence of paragraph (g)(1) of § 413.86 accordingly. The remainder of paragraph (g)(1) of § 413.86 is unchanged.

VIII. Additional Payment to Hospitals That Operate Approved Nursing and Allied Health Education Programs (Section 541 of Public Law 106-113 and 42 CFR 413.86(d) and new 413.87)

Under sections 1861(v) and 1886(a) of the Act, hospitals that operate approved nursing or allied health education programs may be eligible for the pass-through payment under the prospective payment system. Section 1886(h) of the Act establishes the methodology for determining payments to hospitals for the direct costs of GME programs. Section 1886(h) of the Act, as implemented in regulations at § 413.86, specifies that Medicare payments for direct costs of GME are based on a prospectively determined per resident amount (PRA). The PRA is multiplied by the number of FTE residents working in all areas of the hospital complex (and nonhospital sites, where applicable), and the hospital's Medicare share of total inpatient days to determine Medicare's direct GME payment.

Section 1886(h)(3)(D) of the Act, as added by section 4624 of Public Law 105-33, provides a 5-year phase-in of payments to teaching hospitals for direct costs of GME associated with

services to Medicare+Choice (managed care) enrollees for portions of cost reporting periods occurring on or after January 1, 1998. The amount of payment for direct GME is equal to the product of the PRA, the number of FTE residents working in all areas of the hospital (and nonhospital sites, if applicable), the ratio of the number of inpatient bed days that are attributable to Medicare+Choice enrollees to total inpatient bed days, and an applicable percentage. The applicable percentages are 20 percent for portions of cost reporting periods occurring in calendar year 1998, 40 percent in calendar year 1999, 60 percent in calendar year 2000, 80 percent in calendar year 2001, and 100 percent in calendar year 2002 and subsequent years. (Section 1886(d)(11) of the Act, as added by section 4622 of Public Law 105-33, provides a 5-year phase-in of payments to teaching hospitals for IME associated with services to Medicare+Choice enrollees for portions of cost reporting periods occurring on or after January 1, 1998, as well. However, the Medicare+Choice IME payments are irrelevant for the purposes of this section of the interim final rule, because although section 541 of Public Law 106-113 affects the payments for Medicare+Choice direct GME, it in no way affects the payments for Medicare+Choice IME.)

Section 541 of Public Law 106-113 further amended section 1886 of the Act by adding subsection (l) and amending section 1886(h)(3)(D) to provide for additional payments to hospitals for nursing and allied health education programs associated with services to Medicare+Choice enrollees. Hospitals that, under § 413.85, operate approved nursing or allied health education programs and receive Medicare reasonable cost reimbursement for these programs would receive additional payments. This provision is effective for portions of cost reporting periods occurring in a calendar year, beginning with calendar year 2000.

Section 1886(l) of the Act, as added by section 541 of Public Law 106-113, specifies the methodology to be used to calculate these additional payments and places a limitation on the total amount that is projected to be expended in any calendar year; that is, \$60 million. In this document, we refer to the total amount of \$60 million or less as the payment "pool." We emphasize that we use the term "pool" solely for ease of reference; the term reflects an estimated dollar figure, a number that is plugged into a formula to calculate the amount of additional payments. The term "pool" does not refer to a discrete fund of money that is set aside in order to

make the additional payments (thus, for example, if the estimated "pool" is \$50 million, we use the number 50 million to calculate the amount of additional payments, but this does not mean that we set aside \$50 million in a separate fund from which we make the additional payments). The total amount of additional payments associated with utilization of Medicare+Choice enrollees is based on the ratio of total direct GME payments for Medicare+Choice enrollees to total Medicare direct GME payments, multiplied by the total Medicare nursing and allied health education payments. A hospital would receive its share of these additional payments in proportion to the amount of Medicare nursing and allied health education payments received in the cost reporting period that ended in the fiscal year that is 2 years prior to the current calendar year, to the total amount of nursing and allied health payments made to all hospitals in that cost reporting period. Section 541(b) of Public Law 106-113 amended section 1886(h)(3) of the Act to provide that direct GME payments for Medicare+Choice utilization will be reduced to account for the additional payments that are made for nursing and allied health education programs under the provisions of section 1886(l) of the Act.

We are implementing section 541 by establishing regulations at new § 413.87 to incorporate the provisions of section 1886(l) of the Act. We are specifying the rules for a hospital's eligibility to receive the additional payment under section 1886(l), the requirements for determining the additional payment to each eligible hospital, and the methodologies for calculating each additional payment and for calculating the payment "pool." These provisions are discussed below:

A. Qualifying Conditions for Payment

We are providing that, for portions of cost reporting periods occurring on or after January 1, 2000, a hospital that operates a nursing or allied health education program in accordance with § 413.85 may receive an additional payment amount associated with Medicare+Choice utilization if it meets two conditions.

First, section 541 of Public Law 106-113 directs the Secretary to determine the amount of payment for each hospital based on an "*" * * estimate of the ratio of the amount of payments made under section 1861(v) to the hospital for nursing and allied health education activities for the hospital's cost reporting period ending in the *second preceding fiscal year* to the *total of such*

amounts for all hospitals for such cost reporting periods." (Emphasis added). Accordingly, we are providing that the hospital must have received reasonable cost Medicare payment for a nursing or allied health education program(s) in its cost reporting period(s) ending in the fiscal year that is 2 years prior to the current calendar year. For example, if the current calendar year is calendar year 2000, the fiscal year that is 2 years prior to calendar year 2000 is FY 1998. In this example, if a hospital did not receive reasonable cost payment for approved nursing or allied health education programs in FY 1998, but first establishes these programs and receives such payment as specified in § 413.85 after FY 1998, the hospital will only be eligible to receive an additional payment amount in the calendar year that is 2 years after the respective fiscal year. For example, if the hospital establishes a nursing or allied health program in FY 1999, it will first be eligible to receive an additional payment amount in calendar year 2001.

Second, section 541 of Public Law 106-113 states, "For portions of cost reporting periods occurring in a year (beginning with 2000), the Secretary shall provide for an additional payment amount for any hospital that *receives* payments for the costs of approved educational activities for nurse and allied health professional training * * *." (Emphasis added). Accordingly, we are specifying that the hospital also must be receiving reasonable costs payment for its nursing or allied health education program(s) in the current calendar year to receive these additional payments for nursing and allied health training.

B. Calculating the Additional Payment Amount

The Medicare fiscal intermediary will determine if the hospital is eligible to receive the additional payment by applying the two criteria specified in section VIII.A.1. of this preamble. For portions of cost reporting periods occurring on or after January 1, 2000, an eligible hospital will receive the additional payment amount calculated according to the following steps:

Step 1: Determine the hospital's total Medicare payments received for approved nursing or allied health education programs based on data from the settled cost reports for the period(s) ending in the fiscal year that is 2 years prior to the current calendar year.

For example, if the current calendar year is 2000, determine the hospital's total nursing or allied health education payments made in its cost reporting period ending in FY 1998. If a hospital

has more than one cost reporting period ending in that fiscal year, the fiscal intermediary will sum the nursing and allied health payments made to the hospital over those cost reporting periods.

Step 2: Determine the ratio of the individual hospital's total nursing or allied health payments from Step 1, to the total of all nursing and allied health education program payments made across all hospitals for all cost reporting periods ending in the fiscal year that is 2 years prior to the current calendar year.

To determine these total payments, we will use the best available cost reporting data for the applicable hospitals from the Hospital Cost Report Information System (HCRIS) that is for cost reporting periods in the fiscal year that is 2 years prior to the current calendar year. If the necessary data are not included in HCRIS because a hospital files a manual cost report, we will obtain the necessary data from the fiscal intermediaries that serve those hospitals. If a hospital has more than one cost reporting period ending in the fiscal year that is 2 years prior to the current calendar year, we will include all of the hospital's cost reports for those periods in our calculations. If a hospital does not have a cost reporting period ending in the fiscal year that is 2 years prior to the current calendar year (such as a hospital with a long cost reporting period), the hospital will be included in the calculations for the calendar year that is 2 years after the fiscal year in which the long cost reporting period ends.

Each calendar year, HCFA will determine and publish in a proposed rule and a final rule the total amount of nursing and allied health education payments made across all hospitals during the fiscal year that is 2 years prior to the current calendar year.

Step 3: Multiply the ratio calculated in step 2 by the Medicare+Choice nursing and allied health payment "pool" (described under section VIII.C. of this preamble) that is determined by HCFA for the current calendar year.

The resulting product is each respective hospital's additional payment amount. We note that, as evidenced by the methodology outlined above, in accordance with section 541 of Public Law 106-113, Congress is not requiring each hospital's additional payment amount for a given period to be based on the hospital's Medicare+Choice utilization in that period.

C. HCFA Calculation of Medicare+Choice Nursing and Allied Health Payment "Pool"

In accordance with section 1886(l) of the Act, each calendar year, HCFA estimates a total amount, not to exceed \$60 million, which is the basis for determining the additional payments for nursing and allied health education associated with Medicare+Choice enrollees to hospitals that operate approved nursing or allied health education programs. The total amount is calculated in the following manner:

Step 1: We determine the ratio of projected total Medicare+Choice direct GME payments across all hospitals in the current calendar year to projected total direct GME payments across all hospitals in the current calendar year.

Step 2: We multiply the ratio calculated in step 1 by projected total nursing and allied health education reasonable cost payments across all hospitals in the current calendar year.

The resulting product of Step 1 and Step 2, not to exceed \$60 million, is the Medicare+Choice nursing and allied health payment "pool" for the current calendar year.

The projections of Medicare+Choice direct GME, direct GME, and nursing and allied health payments for a calendar year are based on such payments from the best available cost report data from the HCRIS. (For example, for calendar year 2000, the projections are based on the best available cost report data from HCRIS 1998). These payment amounts are then increased to the appropriate calendar year using the increases allowed by section 1886(h) of the Act for these services (using the percentage applicable for the current calendar year for Medicare+Choice direct GME and the Consumer Price Index (CPI) increases for direct GME, and assuming nursing and allied health remains a constant percentage of inpatient hospital spending).

D. Proportional Reduction to Medicare+Choice Direct GME Payments

In order for the Secretary to make the additional payments to eligible hospitals operating approved nursing or allied health education programs, section 1886(h)(3)(D) of the Act, as amended by section 541(b) of Public Law 106-113, specifies that the Secretary will carve out an estimated percentage of payments that are made to teaching hospitals for direct GME associated with services to Medicare+Choice enrollees. Specifically, the law provides that the estimated reductions in

Medicare+Choice direct GME payments must equal the estimated total additional Medicare+Choice nursing and allied health education payments. Because the data for the components of the formula used to calculate this percentage will change each year (due to percentage changes in the Medicare+Choice direct GME phase-in, changes in direct GME payment amounts, and changes in nursing and allied health education payment amounts), we will calculate and publish the applicable percentage reduction each year in the proposed rule and the final rule for the annual update to the hospital inpatient prospective payment system rates. The percentage is estimated by calculating the ratio of the Medicare+Choice nursing and allied health payment "pool" for the current calendar year to the projected total Medicare+Choice direct GME payments made across all hospitals for the current calendar year.

E. Calculation of Amounts for Calendar Year 2000

The total amount of nursing and allied health education payments made across all hospitals for cost reporting periods ending in FY 1998, that is, 2 fiscal years prior to calendar year 2000, is estimated at \$220,622,805. We have calculated this amount for FY 2000 based upon data from hospitals' cost reporting periods ending during FY 1998 (October 1, 1997 through September 30, 1998), as provided by section 541 of Public Law 106-113. (Section VIII.B. of this preamble provides a more detailed explanation of how this amount was derived.) We note that, if a hospital did not have a cost reporting period ending in FY 1998, such as a hospital with a long cost reporting period beginning in FY 1997 and ending in FY 1999, the hospital was excluded from our calendar year 2000 calculations (but will be included in our calendar year 2001 calculations). We are including data for 1,257 hospitals in the calendar year 2000 calculations. Ten of these hospitals had more than one cost reporting period.

According to the methodology outlined in section VIII.C. of this preamble, we have estimated the Medicare+Choice nursing and allied health education payment "pool" for calendar year 2000 to be \$26,272,140. The ratio of each hospital's nursing and allied health education payments from its cost reporting period ending in FY 1998 to total nursing and allied health education payments made from all cost reporting periods ending in FY 1998 is then multiplied by \$26,272,140 to determine each hospital's additional

payment amount (as described in section VIII.B. of this preamble).

For calendar year 2000, the projected total Medicare+Choice direct GME payments made to all hospitals is \$250 million. Therefore, consistent with the methodology described in section VIII.D. of this preamble, the ratio for calendar year 2000 is \$26,272,140 to \$250 million, which equals a 10.5 percent reduction to each hospital's Medicare+Choice direct GME payment during calendar year 2000.

Accordingly, for portions of cost reporting periods occurring in calendar year 2000, hospitals that receive Medicare+Choice direct GME payments will have these payments reduced by 10.5 percent. Specifically, each hospital with a calendar year cost reporting period that is receiving Medicare+Choice direct GME payments will have those payments reduced by 10.5 percent for the period of January through December 2000. If a hospital does not have a calendar year cost reporting period, then the reductions to its Medicare+Choice direct GME payments will depend upon the portion of its cost reporting period that falls within the current calendar year. For example, if a hospital has an October through September fiscal year, its Medicare+Choice direct GME payments from October through December 1999 will not be affected. However, the hospital's Medicare+Choice direct GME payments from January through September 2000 (from its FY 2000 cost reporting period), and its Medicare+Choice direct GME payments from October through December 2000 (from its FY 2001 cost reporting period), will be reduced by 10.5 percent. Its Medicare+Choice direct GME payments for the remainder of its FY 2001 cost reporting period, which extends from January through September 2001, will be reduced by the applicable percentage for calendar year 2001. Similarly, if a hospital has a July through June cost reporting period, its Medicare+Choice direct GME payments from July through December 1999 will not be affected. However, its Medicare+Choice direct GME payments from January through June 2000, and its Medicare+Choice direct GME payments from July through December 2000, will be reduced by 10.5 percent. Its Medicare+Choice direct GME payments for the remainder of its cost reporting period, which extends from January through June 2001, will be reduced by the applicable percentage for calendar year 2001.

In general, we note that hospitals that operate both GME and nursing or allied health education programs should experience either a net gain or loss as a

result of this provision, because although their Medicare+Choice direct GME payments will be reduced by a certain percentage, their Medicare+Choice nursing and allied health payments will be increased. However, hospitals that operate only GME programs will see their Medicare reimbursement reduced, and hospitals that operate only nursing or allied health education programs will see their Medicare reimbursement increased.

F. Regulation Changes

We are adding a new § 413.87 to incorporate the provisions of section 541 of Public Law 106–113. In addition, we are making a conforming change to §§ 413.86(d)(4) through (d)(6) to account for the revised methodology in determining a hospital's Medicare+Choice direct GME payments.

IX. Hospitals and Units Excluded From the Prospective Payment System (Section 121 of Public Law 106–113 and 42 CFR 413.40(c)(4)(iii)(B) and 413.40(c)(4)(v))

A. Limitation on the Target Amounts

In the August 29, 1997 final rule (62 FR 46018), in accordance with section 4414 of Public Law 105–33, we implemented section 1886(b)(3)(H) of the Act, which provides for caps on the target amounts for excluded hospitals and units for cost reporting periods beginning on or after October 1, 1997, through September 30, 2002. The caps on the target amounts apply to the following three classes of excluded hospitals: psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals. In establishing the caps on the target amounts within each class of hospital for new hospitals, section 1886(b)(7)(C) of the Act, as amended by section 4416 of Public Law 105–33, instructed the Secretary to provide an appropriate adjustment to take into account area differences in average wage-related costs. However, since the statutory language under section 4414 of Public Law 105–33 did not provide for the Secretary to account for area differences in wage-related costs in establishing the caps on the target amounts within each class of hospital for existing hospitals, HCFA did not account for wage-related differences in establishing the caps on the target amounts for existing facilities in FY 1998.

Section 121 of Public Law 106–113, which amended section 1886(b)(3)(H) of the Act, directed the Secretary to provide for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and

units, rehabilitation hospitals and units and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. For purposes of calculating the caps, section 1886(b)(3)(H)(ii) of the Act requires the Secretary to first “estimate the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods ending during fiscal year 1996.” Section 1886(b)(3)(H)(iii) of the Act, as added by Public Law 106–113, requires the Secretary to provide for “an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital.”

For cost reporting periods beginning in FY 2000, we update the FY 1996 wage-neutralized national 75th percentile target amount for each class of hospital by the market basket percentage increase up through FY 2000. For cost reporting periods beginning during FY 2001 through 2002, we update the previous fiscal year's wage-neutralized national 75th percentile target amount for each class of hospital by the applicable market basket percentage increase. In determining the national 75th percentile target amount for each class of hospital and consistent with the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act (as added by Public Law 106–113) to determine the appropriate wage adjustment, we have accounted for differences in wage-related costs by adjusting the caps on the target amounts for each class of hospital (psychiatric, rehabilitation, and long-term care) using the methodology described in the following section.

B. Wage-Neutralized National 75th Percentile Target Amounts

In determining the wage-neutralized national 75th percentile target amount for each class of hospital, we used FY 1996 hospital cost report data and determined the labor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the most recent actuarial estimate of the labor-related portion of excluded hospital costs (or 0.71553). This actuarial estimate of the labor-related share of excluded hospital costs reflects revisions made in connection with other revisions to the excluded hospital market basket published in the August 29, 1997 final rule (62 FR 45996). Based on the most recent estimate of the relative weights of the labor cost

categories (wages and salaries, employee benefits, professional fees, postal services, and all other labor intensive services), the labor-related portion is 71.553 percent. The remaining 28.447 percent is the most recent estimate of the nonlabor-related portion. Similarly, we determined the nonlabor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the nonlabor-related portion of costs (or 0.28447).

Next, we wage-neutralized each hospital's FY 1996 target amount by dividing the labor-related portion of each hospital's FY 1996 target amount by the hospital's FY 2000 hospital wage index under the hospital inpatient prospective payment system (see § 412.63), as shown in Tables 4A and 4B of the July 30, 1999 final rule (64 FR 41585). The FY 2000 wage index is the most current wage index available. Moreover, the FY 2000 hospital inpatient prospective payment system wage index was calculated using FY 1996 data. Within the specified class of hospital, each hospital's FY 1996 target amount was wage-neutralized using the published FY 2000 wage index. Each hospital's wage-neutralized FY 1996 target amount was calculated by adding the nonlabor-related portion of its target amount and the wage-neutralized labor-related portion of its target amount.

This methodology for wage-neutralizing each hospital's target amount to determine the national 75th percentile of the target amounts for each class of hospital is identical to the methodology we utilized for the wage index adjustment described in the August 29, 1997 final rule (62 FR 46020) to calculate the wage-adjusted 110 percent of the national median target amounts for new excluded hospitals and units. Again, we recognize that wages may differ for prospective payment hospitals and excluded hospitals and units, but we believe that the wage data reflect area differences in wage-related costs.

In light of the short timeframe we have for implementing section 121 of Public Law 106-113 for cost reporting provisions beginning in FY 2000, the FY 2000 wage data for acute care hospitals was the most feasible data source to determine the wage-neutralized national 75th percentile target amounts since reliable wage data for hospitals and hospital units excluded from the prospective payment system is not available.

Within each class of hospital, the wage-neutralized national 75th percentile target amounts were determined by arraying the hospitals' wage-neutralized FY 1996 target amounts. The wage-neutralized national 75th percentile target amount for each

class of hospital is then separated into a labor-related share and a nonlabor-related share based on actuarial estimates of 71.553 percent labor-related share and 28.447 percent nonlabor-related share.

In the July 30, 1999 final rule (64 FR 41557), based on the national 75th percentile of the target amounts for cost reporting periods ending during FY 1996 (which did not account for area wage-related differences), updated by the market basket percentage increase to FY 2000, we had established the caps on the target amounts for existing excluded hospitals and units as follows:

- Psychiatric hospitals and units: \$11,100
- Rehabilitation hospitals and units: \$20,129
- Long-term care hospitals: \$39,712

Using the wage-neutralized national 75th percentile of the target amounts for cost reporting periods ending during FY 1996, updated by the applicable market basket percentage increase to FY 2000, and the wage adjustment provided for under the amendments made by Public Law 106-113, we are establishing the labor-related share and nonlabor-related share of the FY 2000 wage-neutralized national 75th percentile target amounts for each class of hospital to determine a hospital's FY 2000 cap on the target amount as follows:

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	\$7,863	\$3,126
Rehabilitation	14,666	5,831
Long-Term Care	28,321	11,259

We note that the March 2000 Program Memorandum (Transmittal Number A-00-16) issued to all Medicare fiscal intermediaries listed incorrect amounts for the labor-related portion and nonlabor-related portion of the wage-neutralized caps on the target amounts for FY 2000. The FY 2001 proposed rule (65 FR 26314) also listed incorrect amounts for the labor-related portion and nonlabor-related portion of the proposed FY 2001 wage-neutralized national 75th percentile caps on the target amounts. The correct labor-related and nonlabor-related portions of the wage-neutralized national 75th percentile cap on the target amount for FY 2000 for each class of hospital are listed above. The correct labor-related and nonlabor-related portions of the FY 2001 wage-neutralized national 75th percentile caps on the target amounts for each class of hospital will be included in the FY 2001 hospital

inpatient prospective payment system final rule to be published by August 1, 2000.

The estimates of the national 75th percentile of the target amounts were developed from the best available data on the hospital-specific target amounts for cost reporting periods ending during fiscal year 1996 and then updated by the market basket percentage increase for FY 2000. We used the data that have been reported to HCFA for over 3,000 hospitals and units within the three classes of hospitals specified by the statute. We note that, with respect to long-term care hospitals, we used the same data (provider universe and target amount figures for hospitals within that class) as were used to establish the caps on the target amounts for long-term care hospitals published in the May 12, 1998 final rule (63 FR 26347). The data for psychiatric hospitals and units and rehabilitation hospitals and units used

to establish the caps on the target amounts for these classes of hospitals included updates to the hospital's FY 1996 target amounts resulting from settling cost reports that previously had not been settled prior to August 1997 when the final rule establishing the caps on the target amounts for existing excluded hospitals was published.

C. Wage-Adjusted Target Amounts

We are specifying that, within each class of hospital, a hospital's wage-adjusted cap on the target amount per discharge for FY 2000 is determined by adding the hospital's nonlabor-related portion of the wage-neutralized national 75th percentile cap to its wage-adjusted labor-related portion of the national 75th percentile cap. A hospital's wage-adjusted labor-related portion of the target amount is calculated by multiplying the labor-related portion of the wage-neutralized national 75th

percentile cap for the hospital's class by the hospital's applicable wage index. For FY 2000, a hospital's applicable wage index is the wage index under the hospital inpatient prospective payment system (see § 412.63) for cost reporting periods beginning on or after October 1, 1999, and ending on or before September 30, 2000 as shown in Tables 4A and 4B of the July 30, 1999 final rule (64 FR 41585). The FY 1996 wage-neutralized national 75th percentile target amount for each class of hospital updated through FY 2000 by the applicable market basket percentage increase for excluded hospitals and hospital units used to determine a hospital's limitation on its FY 2000 target amount. For FY 2000, a hospital's FY 2000 limitation on its target amount is used to determine payments for excluded hospitals and units under § 413.40(d). The FY 2000 acute care hospital wage index is used to wage-adjust the labor-related portion of the FY 2000 wage-neutralized national 75th percentile target amount within the specified class of hospital since it is used to provide for an appropriate wage adjustment by accounting for differences in area wage-related costs in FY 2000 hospital inpatient prospective payment system payments. As we stated previously in this section, we recognize that wages may differ for prospective payment hospitals and excluded hospitals and units, but we believe that these wage data reflect area differences in wage-related costs. A hospital's applicable wage index is the wage index value for the area in which the hospital or unit is physically located (MSA or rural area) without taking into account prospective payment system hospital reclassification under section 1886(d)(10) of the Act, and section 1886(d)(8) of the Act as amended by section 401 of Public Law 106-113.

D. Changes in the Regulations

We are revising §§ 413.40(c)(4)(iii)(B) and (c)(4)(v) to incorporate the changes in the methodology used to determine the limitation on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, as provided for under the amendments made by section 121 of Public Law 106-113.

X. Critical Access Hospitals (CAHs)

A. Background: The Medicare Rural Hospital Flexibility Program and CAHs

Section 4201 of Public Law 105-33 amended section 1820 of the Act to create a nationwide Medicare Rural Hospital Flexibility (MRHF) Program to replace the 7-State Essential Access

Community Hospital/Rural Primary Care Hospital (EACH/RPCH) program. Under section 1820(c)(2) of the Act, as amended, a State could designate certain rural hospitals as CAHs if they were located a specified distance from other hospitals, made 24-hour emergency care available, and kept inpatient care for a limited period of time. Additionally, CAH staffing requirements differed from those of other hospitals under Medicare and CAHs received payment for inpatient and outpatient services on the basis of reasonable cost. A comprehensive discussion of CAHs within the context of the MRHF Program may be found in the August 29, 1997 **Federal Register** (62 FR 45970 and 46008-46010).

Sections 401(b) and 403 of Public Law 106-113 modified the CAH program set forth in section 1820 of the Act.

B. Permitting Certain Facilities To Be Designated as CAHs (Section 401(b) of Public Law 106-113 and 42 CFR 485.610)

One of the threshold criteria for designation as a CAH under section 1820(c)(2)(B)(i) of the Act is that the hospital must be rural as defined in section 1886(d)(2)(D) of the Act. Section IV. of this preamble discusses the option of urban to rural classification for a "subsection (d)" hospital authorized by section 401(a) of Public Law 106-113 under an amendment to section 1886(d)(8) of the Act. Section 401(b)(2) of Public Law 106-113 amended section 1820(c)(2)(B)(i) of the Act to authorize a State to designate a hospital in an urban area as a CAH if, under one of the criteria set forth in section 1886(d)(8)(E) of the Act, it would be treated as being located in the rural area of the State in which the hospital is located. Section 401(b)(2) only provides authority for a hospital to meet the rural requirement. We note that the hospital would have to otherwise meet the statutory and regulatory requirements governing CAH designation.

The first criteria in section 401(a) specified that a hospital will be treated as located in a rural area if the hospital is located in a rural census tract of an MSA, as determined under the most recent Goldsmith Modification, originally published in the **Federal Register** on February 27, 1992. A listing of existing hospitals that may qualify as CAHs because they are located in Goldsmith areas is included in Appendix B of this interim final rule with comment period.

The application procedures and effective dates for an urban hospital seeking to reclassify as rural and thus eligible for CAH designation are set

forth in the new regulation at § 412.103 that implements section 401(a), and discussed in section IV.C. of this interim final rule with comment period. We also are revising the regulation concerning CAH location at § 485.610(b) to reflect this amendment.

C. Other Legislative Changes Affecting CAHs

1. 96-hour Average Length of Stay Standard (Section 403(a) of Public Law 106-113 and 42 CFR 485.620(b))

Prior to the enactment of Public Law 106-113, section 1820(c)(2)(B)(iii) of the Act limited CAH designation only to facilities that provided inpatient care to each patient for a period of time not to exceed 96 hours, unless a longer period was required because of inclement weather or other emergency conditions, or a peer review organization (PRO) or equivalent entity, on request, waived the 96-hour restriction. Section 403(a) of Public Law 106-113 amended section 1820(c)(2)(B)(iii) of the Act to require that the 96-hour limit on stays be applied on an annual average basis, and to delete the provisions regarding waiver of longer stays. Therefore, CAHs will be permitted to keep some individual patients more than 96 hours without a waiver request, so long as the facility's average length of acute stays in any 12-month cost reporting period is not more than 96 hours.

The effective date of this provision is November 29, 1999.

We are revising the conditions of participation for length of stay for CAHs at § 485.620(b) to reflect this change.

2. For-Profit Facilities (Section 403(b) of Public Law 106-113 and 42 CFR 485.610(a))

Prior to enactment of Public Law 106-113, section 1820(c)(2)(B) of the Act allowed only nonprofit or public hospitals to be designated as CAHs. Section 403(b) of Public Law 106-113 revises section 1820(c)(2)(B) of the Act to remove the words "nonprofit or public" before "hospitals," thus enabling for-profit hospitals to qualify for CAH status.

We are revising the conditions of participation related to the status and location for CAHs at § 485.610(a) to reflect this change.

3. Closed and Downsized Hospitals (Section 403(c) of Public Law 106-113 and 42 CFR 485.610(a)(1))

Under section 1820(c)(2) of the Act, CAH designation was available only to facilities currently operating as hospitals. Section 403(c) of Public Law 106-113 amended the statute to permit

a State to designate as a CAH a facility that previously was a hospital but ceased operations on or after November 29, 1989 (10 years prior to the enactment of Public Law 106–113), if that facility fulfills the criteria under section 1820(c)(2)(B) of the Act for CAH designation as of the effective date of its designation. The amendment also allows State CAH designation for facilities that previously had been hospitals, but are currently State-licensed health clinics or health centers if they meet the revised criteria for CAH designation under section 1820(c)(2)(B) of the Act as of the effective date of designation.

We are revising the CAH criteria for State certification at § 485.610(a)(1) to reflect this change.

4. Elimination of Coinsurance for Clinical Diagnostic Laboratory Tests Furnished by a CAH (Section 403(e) of Public Law 106–113 and 42 CFR 410.152 and 413.70))

Under the law in effect before the enactment of Public Law 106–113, clinical diagnostic laboratory services furnished by a CAH to its outpatients were, like other outpatient CAH services, paid for on a reasonable cost basis, subject to the Part B deductible and coinsurance provisions. With respect to coinsurance, this means that the beneficiary was responsible for payment of 20 percent of the CAH's customary charges for the services and the CAH received payment from the Medicare program equal to 80 percent of its reasonable costs of furnishing the services.

Section 403(e) of Public Law 106–113 eliminated the Part B coinsurance and deductible for laboratory tests furnished by a CAH on an outpatient basis by providing for Medicare payment to the full amount of the lesser of the fee schedule or billed charges. Thus, CAHs are not permitted to impose a deductible or coinsurance charge on the beneficiary for these services, and Medicare Part B is to pay 100 percent of the lesser of the amount determined under the local laboratory fee schedule, the national limitation amount for that test, or the amount of the charges billed for the tests. In the case of services paid for on the basis of a negotiated rate under section 1833(h)(6) of the Act, the amount to be paid is equal to 100 percent of the negotiated rate. The effect of this change is that clinical diagnostic laboratory tests furnished by a CAH to its outpatients will be paid for on the same basis as is paid for these services furnished by all hospitals to outpatients.

Section 403(e)(2) of Public Law 106–113 provides that this provision is

effective with respect to services furnished on or after November 29, 1999.

We are clarifying our policy and incorporating the provisions of section 403(e) of Public Law 106–113 in §§ 410.152 and 413.70 of the regulations.

Since enactment of Public Law 106–113, we have received many inquiries from the provider community about implementation of section 403(e). In response, we wish to note that revised payment instructions were issued in June 2000 as Medicare Intermediary Manual Transmittal No. 1799 and as Medicare Hospital Manual Transmittal No. 757, and that needed Part B electronic bill processing system changes will be made as soon as possible. The payment instructions explain that CAHs are to no longer collect deductible or coinsurance for these services and that any amounts collected from beneficiaries for these services provided on or after November 29, 1999, are to be returned to the beneficiaries in an appropriate and timely manner. The instructions also explain that payments to CAHs for the services will be adjusted, at cost report settlement, to reflect the payment method required by section 403(e).

5. Participation in Swing-Bed Program (Section 403(f) of Public Law 106–113)

Section 403(f) of Public Law 106–113, entitled “Improvements in the Critical Access Hospital Program,” includes a provision on swing-bed agreements. Since our existing regulations at § 485.645 already provide for swing beds in CAHs, we are not making any changes to our regulations based on this provision.

XI. Hospital Swing-Bed Program

Section 408(a) of Public Law 106–113 amended section 1883(b) of the Act to remove the provision that in order for a hospital to enter into an agreement to provide Medicare post-hospital extended care services, the hospital had to be granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located. Section 408(b) of Public Law 106–113 amended section 1883(d) of the Act to remove the provisions under paragraphs (d)(2) and (d)(3) that placed restrictions on lengths of stays in hospitals with more than 49 beds for post-hospital extended care services. These provisions are effective on the first day after the expiration of the transition period under section

1888(e)(2)(E) of the Act for payment for covered skilled nursing facility (SNF) services under the Medicare program; that is, at the end of the transition period for the SNF prospective payments system that began with the facility's first cost reporting period beginning on or after July 1, 1998 and extend through the end of the facility's third cost reporting period after this date.

The Medicare regulations that implemented the provision of section 1883(b) of the Act are located at § 482.66(a)(3). The regulations that implemented the provisions of sections 1883(d)(2) and (d)(3) of the Act are located at §§ 482.66(a)(6) and (a)(7). As a result of the changes made by section 408(a) and (b) of Public Law 106–113, we are removing §§ 482.66(a)(3), (a)(6), and (a)(7). (Existing paragraphs (a)(4) and (a)(5) are being redesignated as (a)(3) and (a)(4) respectively as a result of the removal of existing paragraph (a)(3).)

XII. Waiver of Notice of Proposed Rulemaking and Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of the rule take effect. However, section 1871(b) of the Act provides that publication of a notice of proposed rulemaking is not required before a rule takes effect where “a statute establishes a specific deadline for the implementation of the provision and the deadline is less than 150 days after the date of enactment of the statute in which the deadline is contained.” In addition, we may waive a notice of proposed rulemaking if we find good cause that notice and comment are impracticable, unnecessary, or contrary to the public interest.

On July 30, 1999, we published a final rule addressing FY 2000 payment rates and policies for prospective payment system hospitals and excluded hospitals (64 FR 41490). Subsequently, on November 29, 1999, Public Law 106–113 was enacted. Public Law 106–113 contained a number of provisions relating to issues addressed in the final rule that have effective dates of October 1, 1999, November 29, 1999, or dates prior to the beginning of FY 2001 (that is, October 1, 2000).

In accordance with section 1871(b) of the Act, publication of a notice of proposed rulemaking is not required before implementing the statutory provisions of Public Law 106–113 that take effect on October 1, 1999, November 29, 1999, January 1, 2000, or

April 1, 2000. In addition, we find good cause to waive prior notice and comment procedures with respect to the provisions of this interim final rule with comment period that implement the specified provisions of Public Law 106–113 with these effective dates (except for sections 404 and 408), because the statutory provisions implemented by this document are clear and specific. Moreover, it would be impracticable to undertake such procedures before those provisions take effect, given the extremely short timeframe for implementing these statutory provisions.

Sections 404 and 408 are both provisions of Public Law 106–113 that contain changes to programs that have prospective effective dates after October 1, 2000. However, these provisions are specific and leave no room for further interpretation. That is, section 404 extends the MCH program as it is currently operated from FY 2002 through 2006. Sections 408(a) and (b) remove two provisions relating to implementation of the hospital swing-bed provision under sections 1883(b) and (d) that are effective on the first day after the expiration of the transition period under section 1888(e)(2)(E) of the Act for payment for covered SNF services; that is at the end of the transition period for the SNF prospective payments system that began with the facility's first cost reporting period beginning on or after July 1, 1998, and extend through the end of the facility's third cost reporting period after that date. These provisions of Public Law 106–113 require no exercise of discretion and we are merely conforming the Medicare regulations to the statute.

We are providing a 30-day period for public comments on all of these provisions.

This rule has been determined to be a major rule as defined in Title 5, United States Code, section 804(2). Ordinarily, under 5 U.S.C. 801, as added by section 251 of Public Law 104–121, a major rule shall take effect 60 days after the later of (1) the date a report on the rule is submitted to Congress or (2) the date the rule is published in the **Federal Register**. However, section 808(2) of Title 5, United States Code, provides that, notwithstanding 5 U.S.C. 801, a major rule shall take effect at such time as the Federal agency promulgating the rule determines, if, for good cause, the agency finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. As indicated above, for good cause we find that it was impracticable to complete notice and comment

procedures before publication of this rule and to delay the effective date of this rule. Accordingly, pursuant to 5 U.S.C. 808, these regulations are effective August 1, 2000.

XIII. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. Comments on the provisions of this interim final rule with comment period will be considered if we receive them by the date specified in the **DATES** section of this preamble.

XIV. Regulatory Impact Analysis

A. Introduction

We have examined the impacts of this interim final rule with comment period as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more annually). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$5 million or less annually. For purposes of the RFA, all hospitals are considered to be small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure

in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million. This interim final rule with comment period does not mandate any requirements for State, local, or tribal governments.

It is clear that the changes being made in this document will affect both a substantial number of small rural hospitals as well as other classes of hospitals, and the effects on some may be significant. We are providing below, in combination with the rest of this interim final rule with comment period, a discussion of the regulatory impact on providers of the various provisions of Public Law 106–113 implemented in this interim final rule with comment period for which we are able to compute estimates of fiscal impact. Two sections of Public Law 106–113, sections 401 and 403, authorize certain hospitals to reclassify into different payment categories or apply for designation as a different class of provider. Since we have no way of anticipating how many hospitals will avail themselves of these options, we cannot predict the financial impact on the Medicare program of these provisions. The total anticipated impact of the provisions for which we can gather data is \$400 million for FY 2000. These provisions, along with those for which data cannot be predicted, are discussed below.

B. Anticipated Effects

1. Impact of Changes Relating to the IME Adjustment Factor Schedule

As discussed in section VI. of this interim final rule with comment period, we are implementing the revised transition schedule for the IME adjustment for FY 2000. Section 111 of Public Law 106–113 provides for special payments to be made to each hospital to reflect the amount of IME payments if the payment factor for FY 2000 equaled 1.6 rather than 1.47.

For the purposes of this interim final rule, we have simulated the difference in IME payments due to the change described above based on the figures we used for computing the proposed FY 2001 prospective payment system rates. We have estimated that, for FY 2000, the total increase in IME payments to teaching hospitals is approximately \$342.2 million, or 0.81 percent.

2. Impact on Excluded Hospitals and Units

We are implementing section 121(a) of Public Law 106–113, which amended section 1886(b)(3)(H) of the Act to direct the Secretary to make an appropriate wage adjustment to the 75th percentile cap on target amounts for psychiatric

hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, established in FY 1998 by section 4414 of Public Law 105-33. The data sources for determining the wage-neutralized national 75th percentile target amounts were FY 1996 cost report data and the FY 2000 inpatient hospital prospective payment system wage index data.

Prior to the enactment of Public Law 106-113, target amounts for these hospitals were set, in accordance with the regulations at § 413.40(c)(4)(iii), at the lesser of the hospital-specific target amount or the national 75th percentile target amount, which was not adjusted to account for area differences in wage-

related costs. Public Law 106-113 amended the regulations at § 413.40(c)(4)(iii) to specify that target amounts for FY 2000 for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals are set at the lesser of the hospital-specific target amount or the wage-adjusted cap on the target amount, which is derived from the national 75th percentile wage-neutralized target amount for each class of hospital.

In order to estimate the impact of the wage-adjusted target amounts on hospitals within each class, we first calculated the target amount for each hospital as it was set under section 4414 of Public Law 105-33. Each hospital's

target amount was set at the lesser of the hospital's hospital-specific target amount or the national 75th percentile target amount. In accordance the regulations at 42 CFR 413.40(d), we then compared the resulting target amount to the hospital's costs per discharge.

Taking into account the provisions of section 123(a) of Public Law 106-113, we then repeated the comparative calculations described above, replacing the national unadjusted 75th percentile target amount with each hospital's wage-adjusted target amount. The results were compared to show the estimated impact on these classes of hospitals and units as follows:

PERCENT OF TOTAL PROVIDERS BY TYPE

Class of hospital/unit	Percent of free-standing hospitals	Percent of hospital-based units
Psychiatric	30.7	69.3
Rehabilitation	16.4	83.6
Long-Term Care	100.0	(¹)

¹ Not applicable.

PERCENT OF TOTAL PROVIDERS BY GEOGRAPHIC LOCATION

Class of hospital/unit	Percent of large urban	Percent of other urban	Percent of rural
Psychiatric	48.3	33.5	18.2
Rehabilitation	49.8	38.1	12.1
Long Term Care	68.6	23.1	8.3

NET CHANGE IN FY 2000 CAP PER DISCHARGE

Class of hospital/unit	Unadjusted FY 2000 target amount ¹	Wage-neutral FY 2000 target amount	Net percentage change
Psychiatric	\$11,100	\$10,990	- 1.0
Rehabilitation	20,129	20,496	+1.8
Long-Term Care	39,712	39,580	- 0.3

¹ As published in the July 30, 1999 Final Rule (64 FR 41557).

NET CHANGE BY CLASS OF HOSPITAL

Class of hospital/unit	Percent of Providers estimated to experience negative impact	Percent of providers estimated to experience no impact	Percent of providers estimated to experience positive impacts
Psychiatric	6.7	87.7	5.6
Rehabilitation	2.5	95.0	2.5
Long-Term Care	6.5	90.2	3.3

The impact of the wage-adjusted caps on target amounts on excluded hospitals and units (psychiatric, rehabilitation, and long-term care) was estimated based on FY 1996 data as this was the most complete data source available. The target amounts (hospital-specific targets, 75th percentile targets, and wage-

adjusted targets) and costs compared in this estimated impact analysis were trended forward to account for inflation through FY 2000.

When comparing the costs to target amounts to determine the impact on hospitals, we did not attempt to determine the impact on incentive

payments, continuous improvement bonus payments, or other payment adjustments for excluded hospitals outlined in the regulations at § 413.40(d). The actual impact on payments to each class of hospital depends on the cost experienced by each excluded hospital or unit since its

applicable base period. It is important to note that while the providers whose hospital-specific target amounts exceed the wage-adjusted cap on the target amounts will have their target amounts reduced to their wage-adjusted target amount, the real impact on each hospital and unit will depend on the level of its operating cost per discharge in relation to its target amount as outlined in at § 413.40(d).

As discussed in the preceding paragraphs, excluded hospital payments are calculated based on the lesser of costs per discharge or the target amount as set forth under § 413.40(c)(4)(iii). Consequently, the fact that the wage-neutralized national 75th percentile target amounts decreased slightly for both psychiatric hospitals and units and long-term care hospitals does not necessarily imply lower payments.

Approximately 75 percent of the hospitals and units in each of these classes have hospital-specific target amounts lower than both the unadjusted and wage-neutralized target amounts, and of those hospitals and units whose hospital-specific target amounts are higher than both the unadjusted and wage-neutralized target amounts, many have costs lower than their target amounts. Consequently, as shown in the table "Net Change by Class of Hospital," most hospitals and hospital units do not appear to experience an impact from the wage-adjustment to the target amounts.

Among those hospitals that do appear to experience an impact from the wage-adjustment to the target amount, the wage-index associated with their location is an indicator in determining whether that impact is positive or negative. Since the wage-neutralized target amounts are wage-adjusted using the hospital inpatient prospective payment system wage index, hospital's located in areas with wage-index values greater than one will have higher wage-adjusted target amounts relative to hospitals located in areas with wage-index values less than one.

3. Impact of Provisions on Reclassification of Hospitals

We are implementing section 401(a) of Public Law 106-113, which added a new section 1886(d)(8)(E) to the Act that directs the Secretary to treat any hospital located in an urban area as being located in the rural area of a State if the hospital files an application and meets certain criteria specified in the statute.

The number of hospitals that will seek to reclassify from urban to rural is unknown at this time. However, generally, reclassification may affect payment rates under the prospective

payment system, wage index calculations, and DSH, SCH, and IME adjustments.

4. Impact of Provisions on CAHs

We are implementing sections 401(b) and 403 of Public Law 106-113, which made a number of modifications to the CAH program under section 1820 of the Act. Specifically, it—

- Authorizes a State to designate a hospital as a CAH if, as set forth in the section 401(a) criteria for a hospital to be eligible to request reclassification from urban to rural, it would be considered as being located in the rural area of the State in which the hospital is located.
- Requires the 96-hour limit on stays in CAHs to be applied on an annual average basis and deletes the provisions regarding waiver for longer stays.
- Provides that for-profit hospitals may qualify for CAH status.
- Permits a State to designate as a CAH a facility that previously was a hospital but ceased operations on or after November 29, 1989 if that facility fulfills the criteria under section 1820(c)(2)(B) of the Act as of the effective date of its designation.
- Permits a State to designate as a CAH a facility that was once a hospital that downsized and now functions as a State licensed health clinic or health center, if the facility meets criteria under section 1820(c)(2)(B) of the Act as of the effective date of its designation.
- Eliminates the coinsurance and deductible for outpatient clinical diagnostic laboratory tests furnished by a CAH and requires that such tests be paid for on the same basis as would apply if the tests had been performed on an outpatient basis.
- Reaffirms the eligibility of CAHs that meet the applicable requirements to enter into "swing-bed" agreements, thus permitting inpatient CAH facilities to be used for furnishing of extended care services type (SNF) services.

The number of facilities that qualify as CAHs will increase as a consequence of the Public Law 106-113 amendments to the CAH program. CAHs are paid on a reasonable cost basis rather than under the prospective payment system. The budgetary impact of these amendments will correlate with the number of facilities that are designated as CAHs under the statutory amendment made by sections 401(b) and 403 of Public Law 106-113. However, we are unable at this time to predict the number of facilities that will be designated as CAHs under these provisions.

5. Impact of Provisions on MDHs

We are incorporating the provisions of section 404 of Public Law 106-113, which extended special payments under the prospective payment system to MDHs for 5 years, from FY 2002 through FY 2006. We estimate that the extension will amount to an increase in payment of 4.4 percent for each of the 5 years of the MDH extension. There is no increase in payment amounts for MDHs for FY 2000 as a result of Public Law 106-113.

6. Impact of Direct GME and IME Provisions

We are amending our regulations to incorporate changes mandated by sections 407(a) through (d) of Public Law 106-113, which amended sections 1886(d) and (h) of the Act to address specific GME FTE cap issues. These changes include increasing the cap for rural hospitals and urban hospitals that establish programs with training in rural areas, revising the FTE caps for hospitals with certain residents on leave during the base period, and temporarily increasing the cap for hospitals that train residents that transferred from certain VA hospitals. The regulations also reflect the provisions of section 312 of Public Law 106-113, which amended section 1886(h)(5) of the Act to change (for purposes of payment) the initial residency period for child neurology residents.

a. Approved Leave of Absences of Residents. Section VII.A. of this interim final rule implements section 407(a) of Public Law 106-113, which directs the Secretary to count an individual for purposes of determining a hospital's FTE cap, to the extent that the individual would have been counted as a primary care resident for purposes of the FTE cap but for the fact that the individual was on maternity or disability leave or a similar approved leave of absence. The provision allows a hospital to receive an adjustment to its individual FTE cap of up to three additional FTE residents. We are unable to predict at this time the number of residents affected by this provision. However, we believe the financial impact will be negligible, because few hospitals and FTEs are likely to be affected.

b. Adjustment to FTE Caps for Rural Hospitals. As explained in section VII.C. of this interim final rule, we are implementing section 407(b) of Public Law 106-113 which provides for a 30-percent expansion to a rural hospital's FTE resident cap. We have calculated an estimated impact on the Medicare program as a result of this provision. We used the best available cost report data

from 1995 HCRIS, which included the resident counts from which the rural hospitals' (and urban hospitals') caps were set. Seventy rural teaching hospitals were included in this impact analysis.

To determine the impact of this provision, we first estimated the average GME (direct GME and IME combined) payment amount made to rural hospitals in FY 1995. Then, we increased the average GME payment amount by 30-percent and multiplied this amount by 70 to reflect a potential 30-percent increase in the number of FTEs across all rural hospitals. Next, we updated this amount for inflation from FY 1995 to FY 2000, and from FY 2000 through FY 2004. Specifically, the estimated costs for each fiscal year are as follows:

FY 2000: \$28.8 million
 FY 2001: \$29.5 million
 FY 2002: \$30.2 million
 FY 2003: \$31.1 million
 FY 2004: \$31.9 million

The total maximum estimated cost for FY 2000 through FY 2004 is \$151.5 million. However, we do not anticipate that all rural hospitals will expand their counts by 30-percent in FY 2000. Therefore, we believe that the actual cost in FY 2000 will be somewhat less than \$28.8 million.

c. Urban Hospitals with Rural Track Residency Programs. As discussed in section VII.C. of this interim final rule with comment period, we are implementing the provision that allows an urban hospital that establishes a new residency program or has an existing residency program with a rural track (or an integrated rural track) to include in its FTE count residents in those rural tracks, in addition to the residents already included in the hospital's FTE cap.

We estimated the costs to the Medicare program from FY 2000 through FY 2004 based on the number of currently existing (as of May 2000), separately accredited, "1-2" rural training track programs. Considering that there are currently 26 such programs, each averaging 4 residents, and making assumptions about the growth of new programs, we estimate that the cost from FY 2000 through FY 2004 will be \$75 million. Specifically, the estimated cost per year is \$5 million for FY 2000, \$10 million for FY 2001, and \$20 million for FYs 2002, 2003, and 2004.

d. Residents Training at VA Hospitals That Would Lose Accreditation. Section VII.D. of this interim final rule with comment period implements section 407(d) of Public Law 106-113 which addresses the situation where a non-VA

hospital temporarily takes on residents training at a VA hospital because the program at the VA hospital would lose its ACGME accreditation if the residents continued to train at the VA hospital. We estimate that the number of residents affected by this provision will be small; we know of only one hospital that is affected by this provision. Therefore, the financial impact will be negligible.

e. Child Neurology Training. We are implementing the provisions of section 312 of Public Law 106-113 which amended section 1886(h)(5) of the Act to revise the initial residency period for child neurology residency programs. We believe this provision will have a minimal financial impact, because there are so few hospitals that will be affected by this provision.

7. Medicare+Choice Nursing and Allied Health Education Payments

As discussed in section VIII. of this interim final rule, we are implementing the methodology for determining the additional payments to be made to hospitals that receive reasonable cost payment for approved nursing or allied health education programs for their services associated with Medicare+Choice enrollees. The estimated total amount calculated for these payments, not to exceed \$60,000,000 in a calendar year, is based on the proportion of projected total direct GME payments for Medicare+Choice enrollees to projected total direct GME payments, multiplied by projected total nursing and allied health education payments. Hospitals would receive these payments in proportion to the amount of Medicare nursing and allied health education payments received in the cost reporting period that ended in the fiscal year that is 2 years prior to the current calendar year, to the total amount of nursing and allied health education payments paid to all hospitals in that cost reporting period. Direct GME payments for Medicare+Choice utilization would be reduced to reflect the estimated amount of additional payments that would be made for nursing and allied health education programs under this provision. For a more detailed explanation of this policy, refer to section VIII. of this preamble.

By requiring that the Medicare+Choice direct GME payments be reduced in order to provide for the additional nursing and allied health education payments, this provision is designed to be budget neutral in the aggregate. However, on a hospital specific basis, hospitals that operate both GME and nursing or allied health

education programs may experience either a net gain or loss as a result of this provision. This is because, although their Medicare+Choice direct GME payments will be reduced by a certain percentage, their nursing and allied health education payments will be increased. However, those hospitals that operate only GME programs will see their Medicare reimbursement reduced, and those hospitals that operate only nursing or allied health education programs will see their Medicare reimbursement increased.

As explained in section VIII.E. of this preamble, the percentage decrease to hospitals' Medicare+Choice direct GME payments is 10.5 percent. For purposes of this interim final rule with comment period, we have estimated a percentage increase to hospitals' nursing and allied health education payments for calendar year 2000. When the nursing and allied health education payment "pool" is added to the total projected nursing and allied health education payments for calendar year 2000, the estimated percentage increase in total nursing and allied health payments is 10.2 percent.

8. Hospital Swing Bed Program

The elimination of the requirements for State certification of need to use acute care beds as swing beds for long-term care patients and the elimination of the constraints on the length of stay in swing beds for rural hospitals with 50 to 100 beds will have a positive effect on providers, especially rural hospitals. However, we do not have the necessary data to determine at this time a budgetary impact of these provisions on Medicare payments.

C. Federalism

We have examined this interim final rule with comment period in accordance with Executive Order 13132, Federalism, and have determined that this interim final rule with comment period will not have any negative impact on the rights, rules, and responsibilities of State, local, or tribal governments.

D. Executive Order 12866

In accordance with the provisions of Executive Order 12866, this interim final rule with comment period was reviewed by the Office of Management and Budget.

XV. Information Collection Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is

submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for § 412.103(b), which contains information collection and recordkeeping requirements.

Section 412.103(b) specifies that a facility seeking reclassification under section 401(a) or (b) of Public Law 106-113 must apply in writing to the HCFA Regional Office and include documentation of the criteria on which its request is based. The application must be mailed; facsimile or other electronic means are not acceptable.

The hospital's application must include a copy of the State law or regulation or other authoritative document verifying that the requesting hospital is situated in an area determined to be rural by the State or the hospital is considered to be a rural hospital.

We estimate that it will take each hospital approximately 30 minutes to complete the application process. We estimate that additional time would be needed to collect the required documentation. This recordkeeping should take no more than approximately 2 hours. Therefore, the paperwork burden associated with the reclassification process would add up to an additional 2½ hours per hospital that request reclassification under section 401 of Public Law 106-113.

These information collection and recordkeeping requirements are not effective until they are approved by OMB.

Comments on these information collection and recordkeeping requirements should be mailed to the following addresses:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise
Standards, Room N2-14-26, 7500
Security Boulevard, Baltimore,
Maryland 21244-1850, Attn: John
Burke HCFA-1131-IFC; and

Office of Information and Regulatory
Affairs, Office of Management and
Budget, Room 3001, New Executive
Office Building, Washington, DC
20503, Attn: Allison Herron Eydt
HCFA-1131-IFC, HCFA Desk Officer.

List of Subjects

42 CFR Part 410

Health facilities, Health professions,
Kidney diseases, Laboratories,
Medicare, Rural areas, X-rays.

42 CFR Part 412

Administrative practice and
procedure, Health facilities, Medicare,
Puerto Rico, Reporting and
recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases,
Medicare, Puerto Rico, Reporting and
recordkeeping requirements.

42 CFR Part 482

Grant programs-health, Hospitals,
Medicaid, Medicare, Reporting and
recordkeeping requirements.

42 CFR Part 485

Grant programs-health, Health
facilities, Medicaid, Medicare,
Reporting and recordkeeping
requirements.

42 CFR Chapter IV is amended as set
forth below:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

A. Part 410 is amended as follows:

1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102 and 1871 of the
Social Security Act (42 U.S.C. 1302 and
1395hh).

2. Section 410.152 is amended by
revising paragraph (k) to read as follows:

§ 410.152 Amounts of payment.

* * * * *

(k) *Amount of payment: Outpatient CAH services.* (1) Payment for CAH outpatient services is the reasonable cost of the CAH in providing these services, as determined in accordance with section 1861(v)(1)(A) of the Act, with § 413.70(b) and (c) of this chapter, and with the applicable principles of cost reimbursement in part 413 and in part 415 of this chapter.

(2) Payment for CAH outpatient services is subject to the applicable Medicare Part B deductible and coinsurance amounts, except as described in § 413.70(c) of this chapter, with Part B coinsurance being

calculated as 20 percent of the
customary (insofar as reasonable)
charges of the CAH for the services.

* * * * *

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

B. Part 412 is amended as follows:

1. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the
Social Security Act (42 U.S.C. 1302 and
1395hh).

2. Section 412.63 is amended by
revising paragraph (b)(1) to read as
follows:

§ 412.63 Federal rates for inpatient operating costs for fiscal years after Federal fiscal year 1984.

* * * * *

1. *Geographic classifications.* (1) For purposes of this section, the definitions set forth in § 412.62(f) apply, except that, effective January 1, 2000, a hospital reclassified as rural may mean a reclassification that results from a geographic redesignation as set forth in § 412.62(f)(1)(iv) or a reclassification that results from an urban hospital applying for reclassification as rural as set forth in § 412.103.

* * * * *

3. Section 412.90 is amended by
revising paragraphs (e) and (j) to read as
follows:

§ 412.90 General rules.

* * * * *

(e) *Hospitals located in areas that are reclassified from urban to rural.* (1) HCFA adjusts the rural Federal payment amounts for inpatient operating costs for hospitals located in geographic areas that are reclassified from urban to rural as defined in § 412.62(f). This adjustment is set forth in § 412.102.

(2) HCFA establishes a procedure by which certain individual hospitals located in urban areas may apply for reclassification as rural. The criteria for reclassification are set forth in § 412.103.

* * * * *

(j) *Medicare-dependent, small rural hospitals.* For cost reporting periods beginning on or after April 1, 1990 and before October 1, 1994, or beginning on or after October 1, 1997 and before October 1, 2006, HCFA adjusts the prospective payment rates for inpatient operating costs determined under subparts D and E of this part if a hospital is classified as a Medicare-dependent, small rural hospital.

* * * * *

4. The section heading of § 412.102 is revised to read as follows:

§ 412.102 Special treatment: Hospitals located in areas that are reclassified from urban to rural as a result of a geographic redesignation.

5. A new § 412.103 is added to read as follows:

§ 412.103 Special treatment: Hospitals located in rural areas and that apply for reclassification as rural.

(a) *General criteria.* A prospective payment hospital that is located in an urban area (as defined in § 412.62(f)(1)(ii)) may be reclassified as a rural hospital if it submits an application in accordance with paragraph (b) of this section and meets any of the following conditions:

(1) The hospital is located in a rural census tract of a Metropolitan Statistical Area (MSA) as determined under the most recent version of the Goldsmith Modification as determined by the Office of Rural Health Policy (ORHP) of the Health Resources and Services Administration which is available via the ORHP website at <http://www.nal.usda.gov/orph> or from the U.S. Department of Health and Human Services, Health Resources and Services Administration, Office of Rural Health Policy, 5600 Fishers Lane, Room 9-05, Rockville, MD 20857.

(2) The hospital is located in an area designated by any law or regulation of the State in which it is located as a rural area, or the hospital is designated as a rural hospital by State law or regulation.

(3) The hospital would qualify as a rural referral center as set forth in § 412.96, or as a sole community hospital as set forth in § 412.92, if the hospital were located in a rural area.

(b) *Application requirements.* (1) *Written application.* A hospital seeking reclassification under this section must submit a complete application in writing to HCFA in accordance with paragraphs (b)(2) and (b)(3) of this section.

(2) *Contents of application.* An application is complete if it contains an explanation of how the hospital meets the condition that constitutes the basis of the request for reclassification set forth in paragraph (a) of this section, including data and documentation necessary to support the request.

(3) *Mailing of application.* An application must be mailed to the HCFA Regional Office by the requesting hospital and may not be submitted by facsimile or other electronic means.

(4) *Notification by HCFA.* Within 5 business days after receiving the hospital's application, the HCFA

Regional Office will send the hospital a letter acknowledging receipt, with a copy to the HCFA Central Office.

(5) *Filing date.* The filing date of the application is the date HCFA receives the application.

(c) *HCFA review.* The HCFA Regional Office will review the application and notify the hospital of its approval or disapproval of the request within 60 days of the filing date.

(d) *Effective dates of reclassification.*

(1) Except as specified in paragraph (d)(2) of this section, HCFA will consider a hospital that satisfies any of the criteria set forth in paragraph (a) of this section as being located in the rural area of the State in which the hospital is located as of that filing date.

(2) If a hospital's complete application is received in HCFA by September 1, 2000, and satisfies any of the criteria set forth in paragraph (a) of this section, HCFA will consider the filing date to be January 1, 2000.

(e) *Withdrawal of application.* A hospital may withdraw an application at any time prior to the date of HCFA's decision as set forth in paragraph (c) of this section.

(f) *Duration of classification.* An approved reclassification under this section remains in effect without need for reapproval unless there is a change in the circumstances under which the classification was approved.

(g) *Cancellation of classification.* (1) A hospital may cancel its rural reclassification by submitting a written request to the HCFA Regional Office not less than 120 days prior to the end of its current cost reporting period.

(2) The hospital's cancellation of the classification is effective beginning with the hospital's next full cost reporting period following the date of its request for cancellation.

6. Section 412.105 is amended by:

- A. Revising paragraph (d)(3)(iv).
- B. Revising paragraph (f)(1)(iv).
- C. Adding and reserving paragraphs (f)(1)(viii) and (ix).
- D. Adding new paragraphs (f)(1)(x), (f)(1)(xi), and (f)(1)(xii).

§ 412.105 Special treatment: Hospitals that incur indirect costs for graduate medical education programs.

(d) *Determination of education adjustment factor.* * * *

(3) *Step three.* * * *

(iv) For discharges occurring during fiscal year 2000, 1.47.

(A) Each hospital receives an amount that is equal in the aggregate to the difference between the amount of payments made to the hospital if 'c' equaled 1.6, rather than 1.47.

(B) The payment of this amount will not affect any other payments, determinations, or budget neutrality adjustments.

* * * * *

(f) *Determining the total number of full-time equivalent residents for cost reporting periods beginning on or after July 1, 1991.* (1) * * *

(iv) Effective for discharges occurring on or after October 1, 1997, the total number of FTE residents in the fields of allopathic and osteopathic medicine in either a hospital or a nonhospital setting that meets the criteria listed in paragraph (f)(1)(ii) of this section may not exceed the number of such FTE residents in the hospital (or, in the case of a hospital located in a rural area, effective for discharges occurring on or after April 1, 2000, 130 percent of that number) with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996.

* * * * *

(x) Effective for discharges occurring on or after April 1, 2000, an urban hospital that establishes a new residency program (as defined in § 413.86(g)(12) of this subchapter), or has an existing residency program, with a rural track (or an integrated rural track) may include in its FTE count residents in those rural tracks in accordance with the provisions of §§ 413.86(g)(11) of this subchapter.

(xi) Effective for discharges occurring in cost reporting periods beginning on or after November 29, 1999, a hospital may receive an adjustment to its FTE cap of up to three additional FTEs to the extent that the additional residents would have been counted as primary care residents for purposes of the hospital's FTE cap but for the fact that the additional residents were on maternity or disability leave or a similar approved leave of absence, in accordance with the provisions of § 413.86(g)(9) of this subchapter.

(xii) For discharges occurring on or after October 1, 1997, a non-Veterans Affairs (VA) hospital may receive a temporary adjustment to its FTE cap to reflect residents who had been previously trained at a VA hospital and were subsequently transferred to the non-VA hospital, if the hospital meets the criteria and other provisions of § 413.86(g)(10) of this subchapter.

* * * * *

§ 412.108 [Amended]

6. Section 412.108 is amended as follows:

a. In paragraph (a)(1), the date "October 1, 2001", is removed and "October 1, 2006" is added in its place.

b. In paragraph (c)(2)(ii) the date "October 1, 2001", is removed and "October 1, 2006" is added in its place.

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

C. Part 413 is amended as follows:

1. The authority citation for Part 413 continues to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395hh, 1395rr, 1395tt, and 1395ww).

2. Section 413.40 is amended by republishing the introductory text of paragraph (c)(4) and of paragraph (c)(4)(iii) and revising paragraphs (c)(4)(iii)(B) and (c)(4)(v), to read as follows:

§ 413.40 Ceiling on the rate of increase in hospital inpatient costs.

* * * * *

(c) *Costs subject to the ceiling.* * * *

(4) *Target amounts.* The intermediary will establish a target amount for each hospital. The target amount for a cost reporting period is determined as follows:

* * * * *

(iii) In the case of a psychiatric hospital or unit, rehabilitation hospital or unit, or long-term care hospital, the target amount is the lower of—

* * * * *

(B) One of the following for the applicable cost reporting period—

(1) For cost reporting periods beginning during fiscal year 1998, the 75th percentile of target amounts for hospitals in the same class (psychiatric hospital or unit, rehabilitation hospital or unit, or long-term care hospital) for cost reporting periods ending during FY 1996, increased by the applicable market basket percentage up to the first cost reporting period beginning on or after October 1, 1997.

(2) For cost reporting periods beginning during fiscal year 1999, the amount determined under paragraph (c)(4)(iii)(B)(1) of this section, increased by the market basket percentage up through the subject period, subject to the provisions of paragraph (c)(4)(iv) of this section.

(3) For cost reporting periods beginning during fiscal year 2000—

(i) The labor-related portion and the nonlabor-related portion of the wage-

neutralized 75th percentile of target amounts for hospitals in the same class (psychiatric hospital or unit, rehabilitation hospital or unit, or long-term care hospital) for cost reporting periods ending during FY 1996, are increased by the applicable market basket percentage up to the first cost reporting period beginning on or after October 1, 1999.

(ii) The labor-related portion of the wage-neutralized 75th percentile target amounts under paragraph (c)(4)(iii)(B)(4)(i) of this section is wage adjusted by multiplying it by the hospital's FY 2000 hospital inpatient prospective payment system wage index.

(iii) The wage-adjusted 75th percentile target amounts for hospitals in the same class is determined by adding the nonlabor-related portion of the wage-neutralized 75th percentile target amounts under paragraph (c)(4)(iii)(B)(3)(i) of this section and the hospital's wage-adjusted labor-related portion of the wage-neutralized 75th percentile target amounts determined under paragraph (c)(4)(iii)(B)(3)(ii) of this section, subject to the provisions of paragraph (c)(4)(iv) of this section.

(4) For cost reporting periods beginning during fiscal years 2001 and 2002—

(i) The amounts determined under paragraph (c)(4)(iii)(B)(3)(i) of this section are increased by the market basket percentage up through the subject period.

(ii) The labor-related portion of the wage-neutralized 75th percentile target amounts under paragraph (c)(4)(iii)(B)(4)(i) of this section is wage-adjusted by multiplying by the hospital's FY 2001 hospital inpatient prospective payment system wage index, for cost reporting periods beginning during fiscal year 2001 and the hospital's FY 2002 hospital inpatient prospective payment system wage index for cost reporting periods beginning during fiscal year 2002.

(iii) The wage-adjusted 75th percentile target amounts for hospitals in the same class are determined by adding the nonlabor-related portion of the wage-neutralized 75th percentile target amounts under paragraph (c)(4)(iii)(B)(4)(i) of this section and the hospital's wage-adjusted labor-related portion of the wage-neutralized 75th percentile target amounts determined under paragraph (c)(4)(iii)(B)(4)(ii) of this section, subject to the provisions of paragraph (c)(4)(iv) of this section.

* * * * *

(v) In the case of a hospital that received payments under paragraph

(f)(2)(ii) of this section as a newly created hospital or unit, to determine the hospital's target amount for the hospital's third 12-month cost reporting period, the payment amount determined under paragraph (f)(2)(ii)(A) of this section for the preceding cost reporting period is updated to the third cost reporting period.

* * * * *

3. Section 413.70 is amended by:

A. Revising paragraphs (b)(2)(iii) and (b)(2)(iv).

B. Removing paragraph (b)(2)(v).

C. Adding a new paragraph (c).

§ 413.70 Payment for services of a CAH.

* * * * *

(b) * * *

(2) * * *

(iii) Any type of reduction to operating or capital costs under § 413.124 or § 413.130(j)(7); and

(iv) Blended payment amounts for ASC, radiology, and other diagnostic services.

(c) The following payment principles are used when determining payment for outpatient clinical diagnostic laboratory tests:

(1) The amount paid is equal to 100 percent of the least of—

(i) Charges determined under the fee schedule as set forth in section 1833(h)(1) or section 1834(d)(1) of the Act;

(ii) The limitation amount for that test determined under section 1833(h)(4)(B) of the Act or the amount of the charges billed for the test; or

(iii) A negotiated rate established under section 1833(h)(6) of the Act.

(2) Payment for outpatient clinical diagnostic laboratory tests is not subject to the Medicare Part B deductible and coinsurance amounts, as specified in § 410.152(k) of this chapter.

4. Section 413.86 is amended by:

A. Adding definitions of "rural track FTE limitation" and "rural track or integrated rural track" in alphabetical order under paragraph (b).

B. Revising paragraphs (d)(4) and (d)(5).

C. Adding a new paragraph (d)(6).

D. Revising paragraph (g)(1).

E. Revising the first sentence of paragraph (g)(4).

F. Redesignating paragraph (g)(9) as paragraph (g)(12).

G. Add new paragraphs (g)(9), (g)(10), and (g)(11).

§ 413.86 Direct graduate medical education payments.

* * * * *

(b) *Definitions.* * * *

Rural track FTE limitation means the maximum number of residents (as

specified in paragraph (g)(11) of this section) training in a rural track residency program that an urban hospital may include in its FTE count and that is in addition to the number of FTE residents already included in the hospital's FTE cap.

Rural track or integrated rural track means an approved medical residency training program established by an urban hospital in which residents train for a portion of the program at the urban hospital and then rotate for a portion of the program to a rural hospital(s) or a rural nonhospital site(s).

* * * * *

(d) *Calculating payment for graduate medical education costs.* * * *

(4) *Step four.* Effective for cost reporting periods beginning on or after January 1, 2000, the product derived from step three is reduced in accordance with the provisions of § 413.87(f).

(5) *Step five.* (i) For portions of cost reporting periods beginning on or after January 1, 1998 and before January 1, 2000, add steps two and three.

(ii) Effective for portions of cost reporting periods beginning on or after January 1, 2000, add the results of steps two and four.

(6) *Step six.* The product derived in step two is apportioned between Part A and Part B of Medicare based on the ratio of Medicare's share of reasonable costs excluding graduate medical education costs attributable to each part as determined through the Medicare cost report.

* * * * *

(g) *Determining the weighted number of FTE residents.* (1) Generally, for purposes of this section, effective July 1, 1995, an initial residency period is defined as the minimum number of years required for board eligibility. Prior to July 1, 1995, the initial residency period equals the minimum number of years required for board eligibility in a specialty or subspecialty plus 1 year. An initial residency period may not exceed 5 years in order to be counted toward determining FTE status except in the case of fellows in an approved geriatric program whose initial residency period may last up to 2 additional years. Effective July 1, 2000, for residency programs that began before, on, or after November 29, 1999, the period of board eligibility and the initial residency period for a resident in an approved child neurology program is the period of board eligibility for pediatrics plus 2 years. Effective August 10, 1993, residents or fellows in an approved preventive medicine residency or fellowship program also may be counted as a full FTE resident for up to 2

additional years beyond the initial residency period limitations. For combined residency programs, an initial residency period is defined as the time required for individual certification in the longer of the programs. If the resident is enrolled in a combined medical residency training program in which all of the individual programs (that are combined) are for training primary care residents (as defined in paragraph (b) of this section) or obstetrics and gynecology residents, the initial residency period is the time required for individual certification in the longer of the programs plus 1 year.

* * * * *

(4) For purposes of determining direct graduate medical education payment, for cost reporting periods beginning on or after October 1, 1997, a hospital's unweighted FTE count for residents in allopathic and osteopathic medicine may not exceed the hospital's unweighted FTE count (or, effective for cost reporting periods beginning on or after April 1, 2000, 130 percent of the unweighted FTE count for a hospital located in a rural area) for these residents for the most recent cost reporting period ending on or before December 31, 1996. * * *

(9) Effective for cost reporting periods beginning on or after November 29, 1999, a hospital may receive an adjustment to its FTE cap of up to three additional resident FTEs, if the hospital meets the following criteria:

(i) The additional residents are residents of a primary care program that would have been counted by the hospital as residents for purposes of the hospital's FTE cap but for the fact that the additional residents were on maternity or disability leave or a similar approved leave of absence during the hospital's most recent cost reporting period ending on or before December 31, 1996;

(ii) The leave of absence was approved by the residency program director to allow the residents to be absent from the program and return to the program after the leave of absence; and

(iii) No later than 6 months after August 1, 2000, the hospital submits to the fiscal intermediary a request for an adjustment to its FTE cap, and provides contemporaneous documentation of the approval of the leave of absence by the residency director, specific to each additional resident that is to be counted for purposes of the adjustment.

(10) For cost reporting periods beginning on or after October 1, 1997, a non-Veterans Affairs (VA) hospital may receive a temporary adjustment to its

FTE cap to reflect residents who had previously trained at a VA hospital and were subsequently transferred to the non-VA hospital, if that hospital meets the following criteria:

(i) The transferred residents had been training previously at a VA hospital in a program that would have lost its accreditation by the ACGME if the residents continued to train at the VA hospital;

(ii) The residents were transferred to the hospital from the VA hospital on or after January 1, 1997, and before July 31, 1998; and

(iii) The hospital submits a request to its fiscal intermediary for a temporary adjustment to its FTE cap, documents that it is eligible for this temporary adjustment by identifying the residents who have come from the VA hospital, and specifies the length of time those residents will be trained at the hospital.

(11) For cost reporting periods beginning on or after April 1, 2000, an urban hospital that establishes a new residency program, or has an existing residency program, with a rural track (or an integrated rural track) may include in its FTE count residents in those rural tracks, in addition to the residents subject to its FTE cap specified under paragraph (g)(4) of this section. An urban hospital with a rural track residency program may count residents in those rural tracks up to a rural track FTE limitation if the hospital complies with the conditions specified in paragraphs (g)(11)(i) through (g)(11)(vi) of this section.

(i) If an urban hospital rotates residents in the rural track program to a rural hospital(s) for at least two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count for the time the rural track residents spend at the urban hospital. The urban hospital may include in its FTE count those residents in the rural track training at the urban hospital, not to exceed its rural track FTE limitation, determined as follows:

(A) For the first 3 years of the rural track's existence, the rural track FTE limitation for each urban hospital will be the actual number of FTE residents training in the rural track at the urban hospital.

(B) Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of the highest number of residents in any program year, who during the third year of the rural track's existence are training in the rural track at the urban hospital or the rural hospital(s) and are designated at the beginning of their training to be rotated to the rural hospital(s) for at least two-

thirds of the duration of the program, and the number of years those residents are training at the urban hospital.

(ii) If an urban hospital rotates residents in the rural track program to a rural nonhospital site(s) for at least two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count, subject to the requirements under paragraph (f)(4) of this section. The urban hospital may include in its FTE count those residents in the rural track, not to exceed its rural track FTE limitation, determined as follows:

(A) For the first 3 years of the rural track's existence, the rural track FTE limitation for each urban hospital will be the actual number of FTE residents training at the urban hospital and the rural nonhospital site(s).

(B) Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of—

(1) The highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at—

(i) The urban hospital and are designated at the beginning of their training to be rotated to a rural nonhospital site(s) for at least two-thirds of the duration of the program; and

(ii) The rural nonhospital site(s); and

(2) The number of years in which the residents are expected to complete each program based on the minimum accredited length for the type of program.

(iii) If an urban hospital rotates residents in the rural track program to a rural hospital(s) for periods of time that are less than two-thirds of the duration of the program, the rural hospital may not include those residents in its FTE count (if the urban hospital's FTE count exceeds that hospital's FTE cap), nor may the urban hospital include those residents when calculating its rural track FTE limitation.

(iv) If an urban hospital rotates residents in the rural track program to a rural nonhospital site(s) for periods of time that are less than two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count, subject to the requirements under paragraph (f)(4) of this section. The urban hospital may include in its FTE count those residents in the rural track, not to exceed its rural track FTE limitation, determined as follows:

(A) For the first 3 years of the rural track's existence, the rural track FTE limitation for the urban hospital will be the actual number of FTE residents

training in the rural track at the rural nonhospital site(s).

(B) Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of—

(1) The highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at the rural nonhospital site(s) or are designated at the beginning of their training to be rotated to the rural nonhospital site(s) for a period that is less than two-thirds of the duration of the program; and

(2) The length of time in which the residents are being training at the rural nonhospital site(s) only.

(v) All urban hospitals that wish to count FTE residents in rural tracks, not to exceed their respective rural track FTE limitation, must also comply with all of the following conditions:

(A) An urban hospital may not include in its rural track FTE limitation or (assuming the urban hospital's FTE count exceeds its FTE cap) FTE count residents who are training in a rural track residency program that were already included as part of the hospital's FTE cap.

(B) The hospital must base its count of residents in a rural track on written contemporaneous documentation that each resident enrolled in a rural track program at the hospital intends to rotate for a portion of the residency program to a rural area.

(C) All residents that are included by the hospital as part of its FTE count (not to exceed its rural track FTE limitation) must ultimately train in the rural area.

(vi) If HCFA finds that residents who are included by the urban hospital as part of its FTE count did not actually complete the training in the rural area, HCFA will reopen the urban hospital's cost report within the 3-year reopening period as specified in § 405.1885 of this chapter and adjust the hospital's Medicare GME payments (and, where applicable, the hospital's rural track FTE limitation).

* * * * *

5. A new § 413.87 is added to read as follows:

§ 413.87 Payments for Medicare+Choice nursing and allied health education programs.

(a) *Statutory basis.* This section implements section 1886(l) of the Act, which provides for additional payments to hospitals that operate and receive Medicare reasonable cost reimbursement for approved nursing and allied health education programs and the methodology for determining the additional payments.

(b) *Scope.* This section sets forth the rules for determining an additional payment amount to hospitals that receive payments for the costs of operating approved nursing or allied health education programs under § 413.85.

(c) *Qualifying conditions for payment.* For portions of cost reporting periods occurring on or after January 1, 2000, a hospital that operates and receives payment for a nursing or allied health education program under § 413.85 may receive an additional payment amount. The hospital may receive the additional payment amount, which is calculated in accordance with the provisions of paragraph (d) of this section, if both of the conditions specified in paragraph (c)(1) and (c)(2) of this section are met.

(1) The hospital must have received Medicare reasonable cost payment for an approved nursing or allied health education program under § 413.85 in its cost reporting period(s) ending in the fiscal year that is 2 years prior to the current calendar year. (For example, if the current year is calendar year 2000, the fiscal year that is 2 years prior to calendar year 2000 is FY 1998.) For a hospital that first establishes a nursing or allied health education program and receives reasonable cost payment for the program as specified under § 413.85 after FY 1998, the hospital is eligible to receive an additional payment amount in a calendar year that is 2 years after the respective fiscal year so long as the hospital also meets the condition under paragraph (c)(2) of this section.

(2) The hospital must be receiving reasonable cost payment for an approved nursing or allied health education program under § 413.85 in the current calendar year.

(d) *Calculating the additional payment amount.* Subject to the provisions of paragraph (f) of this section relating to calculating a proportional reduction in Medicare+Choice direct GME payments, the additional payment amount specified in paragraph (c) of this section is calculated according to the following steps:

(1) *Step one.* Each calendar year, determine the hospital's total nursing and allied health education program payments from its cost reporting period(s) ending in the fiscal year that is 2 years prior to the current calendar year.

(2) *Step two.* Determine the ratio of the hospital's payments from step one to the total of all nursing and allied health education program payments across all hospitals for all cost reporting periods ending in the fiscal year that is 2 years prior to the current calendar year.

(3) *Step three.* Multiply the ratio calculated in step two by the amount determined in accordance with paragraph (e) of this section for the current calendar year. The resulting product is each respective hospital's additional payment amount.

(e) *Calculation of the payment "pool."*

(1) Subject to paragraph (e)(3) of this section, each calendar year, HCFA will calculate a Medicare+Choice nursing and allied health payment "pool" according to the following steps:

(i) Determine the ratio of projected total Medicare+Choice direct GME payments made in accordance with the provisions of § 413.86(d)(3) across all hospitals in the current calendar year to projected total direct GME payments made across all hospitals in the current calendar year.

(ii) Multiply the ratio calculated in paragraph (e)(1)(i) of this section by projected total Medicare nursing and allied health education reasonable cost payments made across all hospitals in the current calendar year.

(2) The resulting product of the steps under paragraph (e)(1)(i) and (e)(1)(ii) of this section is the Medicare+Choice nursing and allied health payment pool for the current calendar year.

(3) The payment pool may not exceed \$60 million in any calendar year.

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

D. Part 482 is amended as follows:

1. The authority citation for Part 482 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 482.66 [Amended]

2. Section 482.66 is amended by:

- A. Removing paragraph (a)(3).
- B. Redesignating paragraphs (a)(4) and (a)(5) as (a)(3) and (a)(4), respectively.
- C. Removing paragraphs (a)(6) and (a)(7).

PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

E. Part 485 is amended as follows:

1. The authority citation for Part 485 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 485.610 is amended by:

- A. Revising paragraph (a).
- B. Republishing the introductory text of paragraph (b).
- C. Redesignating paragraph (b)(4) as paragraph (b)(5) and republishing newly designated paragraph (b)(5).

D. Adding a new paragraph (b)(4).

§ 485.610 Condition of participation: Status and location.

(a) *Standard: Status.* The facility is—

(1) A currently participating hospital that meets all conditions of participation set forth in this subpart;

(2) A recently closed facility, provided that the facility—

(i) Was a hospital that ceased operations on or after the date that is 10 years before November 29, 1999; and

(ii) Meets the criteria for designation under this subpart as of November 29, 1999; or

(3) A health clinic or a health center (as defined by the State) that—

(i) Is licensed by the State as a health clinic or a health center;

(ii) Was a hospital that was downsized to a health clinic or a health center; and

(iii) As of the effective date of its designation, meets the criteria for designation set forth in this subpart.

(b) *Standard: Location.* The CAH meets the following requirements:

* * * * *

(4) The CAH is being treated as being located in a rural area in accordance with § 412.103 of this chapter.

(5) The CAH is located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or another CAH, or the CAH is certified by the State as being a necessary provider of health care services to residents in the area.

3. Section 485.620 is amended by revising paragraph (b) to read as follows:

§ 485.620 Condition of participation: Number of beds and length of stay.

* * * * *

(b) *Standard: Length of stay.* The CAH provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: July 21, 2000.

Nancy Ann Min DeParle,
Administrator, Health Care Financing Administration.

Dated: July 24, 2000.

Donna E. Shalala,
Secretary.

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

APPENDIX A—URBAN COUNTIES AS OF JANUARY 1, 2000 WITH CENSUS TRACTS THAT MAY QUALIFY AS RURAL UNDER GOLDSMITH MODIFICATION

[Based on 1990 Census Data]

County	State
BALDWIN	ALABAMA.
MOBILE	ALABAMA.
TUSCALOOSA	ALABAMA.
ANCHORAGE	ALASKA.
COCONINO	ARIZONA.
MARICOPA	ARIZONA.
MOHAVE	ARIZONA.
PIMA	ARIZONA.
PINAL	ARIZONA.
YUMA	ARIZONA.
BUTTE	CALIFORNIA.
EL DORADO	CALIFORNIA.
FRESNO	CALIFORNIA.
KERN	CALIFORNIA.
LOS ANGELES	CALIFORNIA.
MADERA	CALIFORNIA.
MERCED	CALIFORNIA.
MONTEREY	CALIFORNIA.
PLACER	CALIFORNIA.
RIVERSIDE	CALIFORNIA.
SAN BERNARDINO ..	CALIFORNIA.
SAN DIEGO	CALIFORNIA.
SAN JOAQUIN	CALIFORNIA.
SAN LUIS OBISPO ...	CALIFORNIA.
SANTA BARBARA ...	CALIFORNIA.
SANTA CLARA	CALIFORNIA.
SHASTA	CALIFORNIA.
SONOMA	CALIFORNIA.
STANISLAUS	CALIFORNIA.
TULARE	CALIFORNIA.
VENTURA	CALIFORNIA.
ADAMS	COLORADO.
EL PASO	COLORADO.
LARIMER	COLORADO.
MESA	COLORADO.
PUEBLO	COLORADO.
WELD	COLORADO.
COLLIER	FLORIDA.
DADE	FLORIDA.
MARION	FLORIDA.
OSCEOLA	FLORIDA.
PALM BEACH	FLORIDA.
POLK	FLORIDA.
BUTLER	KANSAS.
RAPIDES	LOUISIANA.
TERREBONNE	LOUISIANA.
PENOBSCOT	MAINE.
WORCESTER	MASSACHUSETTS.
POLK	MINNESOTA.
ST. LOUIS	MINNESOTA.
STEARNS	MINNESOTA.
CASCADE	MONTANA.
MISSOULA	MONTANA.
YELLOWSTONE	MONTANA.
CLARK	NEVADA.
NYE	NEVADA.
WASHOE	NEVADA.
DONA ANA	NEW MEXICO.
SANDOVAL	NEW MEXICO.
SANTA FE	NEW MEXICO.
HERKIMER	NEW YORK.
BURLEIGH	NORTH DAKOTA.
CASS	NORTH DAKOTA.
GRAND FORKS	NORTH DAKOTA.
MORTON	NORTH DAKOTA.
OSAGE	OKLAHOMA.

APPENDIX A—URBAN COUNTIES AS OF JANUARY 1, 2000 WITH CENSUS TRACTS THAT MAY QUALIFY AS RURAL UNDER GOLDSMITH MODIFICATION—Continued

[Based on 1990 Census Data]

County	State
CLACKAMAS	OREGON.
JACKSON	OREGON.
LANE	OREGON.
LYCOMING	PENNSYLVANIA.
PENNINGTON	SOUTH DAKOTA.
BEXAR	TEXAS.
BRAZORIA	TEXAS.
HARRIS	TEXAS.
HIDALGO	TEXAS.

APPENDIX A—URBAN COUNTIES AS OF JANUARY 1, 2000 WITH CENSUS TRACTS THAT MAY QUALIFY AS RURAL UNDER GOLDSMITH MODIFICATION—Continued

[Based on 1990 Census Data]

County	State
TOM GREEN	TEXAS.
WEBB	TEXAS.
KANE	UTAH.
UTAH	UTAH.
BENTON	WASHINGTON.
FRANKLIN	WASHINGTON.
KING	WASHINGTON.
PIERCE	WASHINGTON.
SNOHOMISH	WASHINGTON.

APPENDIX A—URBAN COUNTIES AS OF JANUARY 1, 2000 WITH CENSUS TRACTS THAT MAY QUALIFY AS RURAL UNDER GOLDSMITH MODIFICATION—Continued

[Based on 1990 Census Data]

County	State
SPOKANE	WASHINGTON.
WHATCOM	WASHINGTON.
YAKIMA	WASHINGTON.
DOUGLAS	WISCONSIN.
MARATHON	WISCONSIN.
LARAMIE	WYOMING.
NATRONA	WYOMING.

APPENDIX B.—HOSPITALS AS OF JANUARY 1, 2000 THAT MAY QUALIFY AS RURAL WITHIN A GOLDSMITH MODIFICATION AREA

[Based on 1990 Census Data]

Hospital name	County	State
North Baldwin Hospital	BALDWIN	ALABAMA.
South Baldwin Hospital	BALDWIN	ALABAMA.
Thomas Hospital	BALDWIN	ALABAMA.
Flagstaff Medical Center	COCONINO	ARIZONA.
Page Hospital	COCONINO	ARIZONA.
Wickenburg Regional Hospital	MARICOPA	ARIZONA.
Bullhead Community Hospital	MOHAVE	ARIZONA.
Havasau Samaritan Regional Hospital	MOHAVE	ARIZONA.
Kingman Regional Medical Center	MOHAVE	ARIZONA.
Mohave Valley Hospital and Medical Center	MOHAVE	ARIZONA.
Central Arizona Medical Center	PINAL	ARIZONA.
Casa Grande Regional Medical Center	PINAL	ARIZONA.
Biggs-Gridley Memorial Hospital	BUTTE	CALIFORNIA.
Feather River Hospital	BUTTE	CALIFORNIA.
Barton Memorial Hospital	EL DORADO	CALIFORNIA.
Coalinga Regional Medical Center	FRESNO	CALIFORNIA.
Kingsburg Medical Center	FRESNO	CALIFORNIA.
Sanger General Hospital	FRESNO	CALIFORNIA.
Selma District Hospital	FRESNO	CALIFORNIA.
Sierra Kings Health Care District	FRESNO	CALIFORNIA.
Delano Regional Medical Center	KERN	CALIFORNIA.
Kern Valley Hospital	KERN	CALIFORNIA.
Ridgecrest Community Hospital	KERN	CALIFORNIA.
Tehachapi Valley Hospital	KERN	CALIFORNIA.
Westside District Hospital	KERN	CALIFORNIA.
Avalon Municipal Hospital and Clinic	LOS ANGELES	CALIFORNIA.
Chowchilla District Memorial Hospital	MADERA	CALIFORNIA.
Madera Community Hospital	MADERA	CALIFORNIA.
Bloss Memorial Hospital	MERCED	CALIFORNIA.
Dos Palos Memorial Hospital	MERCED	CALIFORNIA.
Los Banos Community Hospital	MERCED	CALIFORNIA.
Sutter Auburn Faith Hospital	PLACER	CALIFORNIA.
Palo Verde Hospital	RIVERSIDE	CALIFORNIA.
San Geronimo Memorial Hospital	RIVERSIDE	CALIFORNIA.
Santa Ynez Valley Cottage Hospital	SANTA BARBARA	CALIFORNIA.
Barstow Community Hospital	SAN BERNARDINO	CALIFORNIA.
Needles Desert Community Hospital	SAN BERNARDINO	CALIFORNIA.
Hi-Desert Medical Center	SAN BERNARDINO	CALIFORNIA.
Doctors Hospital of Manteca	SAN JOAQUIN	CALIFORNIA.
"St Dominic's Hospital"	SAN JOAQUIN	CALIFORNIA.
Tracy Community Memorial Hospital	SAN JOAQUIN	CALIFORNIA.
Twin Cities Community Hospital	SAN LUIS OBISPO	CALIFORNIA.
South Valley Hospital	SANTA CLARA	CALIFORNIA.
Petaluma Valley Hospital	SONOMA	CALIFORNIA.
Sonoma Valley Health Care District	SONOMA	CALIFORNIA.
Del Puerto Hospital	STANISLAUS	CALIFORNIA.
Emanuel Medical Center	STANISLAUS	CALIFORNIA.
Oak Valley District Hospital	STANISLAUS	CALIFORNIA.
Alta District Hospital	TULARE	CALIFORNIA.

APPENDIX B.—HOSPITALS AS OF JANUARY 1, 2000 THAT MAY QUALIFY AS RURAL WITHIN A GOLDSMITH MODIFICATION AREA—Continued
 [Based on 1990 Census Data]

Hospital name	County	State
Sierra View District Hospital	TULARE	CALIFORNIA.
Tulare District Hospital	TULARE	CALIFORNIA.
Lindsay District Hospital	TULARE	CALIFORNIA.
Exeter Memorial Hospital	TULARE	CALIFORNIA.
Estes Park Medical Center	LARIMER	COLORADO.
McKee Medical Center	LARIMER	COLORADO.
Glades General Hospital	PALM BEACH	FLORIDA.
Bartow Memorial Hospital	POLK	FLORIDA.
Heart of Florida Hospital	POLK	FLORIDA.
Polk General Hospital	POLK	FLORIDA.
Lake Wales Medical Center	POLK	FLORIDA.
Susan B. Allen Memorial Hospital	BUTLER	KANSAS.
Millinocket Regional Hospital	PENOBSCOT	MAINE.
Penobscot Valley Hospital	PENOBSCOT	MAINE.
Harrington Memorial Hospital	WORCESTER	MASSACHUSETTS.
Heywood Hospital	WORCESTER	MASSACHUSETTS.
Athol Memorial Hospital	WORCESTER	MASSACHUSETTS.
Clinton Hospital	WORCESTER	MASSACHUSETTS.
First Care Medical Services	POLK	MINNESOTA.
Riverview Healthcare Association	POLK	MINNESOTA.
Ely-Bloomenson Community Hospital	ST. LOUIS	MINNESOTA.
Eveleth Health Services Park	ST. LOUIS	MINNESOTA.
Cook Hospital & Convalescent Center	ST. LOUIS	MINNESOTA.
University Medical Center—Mesabi	ST. LOUIS	MINNESOTA.
Virginia Regional Medical Center	ST. LOUIS	MINNESOTA.
White Community Hospital	ST. LOUIS	MINNESOTA.
Albany Area Hospital & Medical Center	STEARNS	MINNESOTA.
“St Michael’s Hospital”	STEARNS	MINNESOTA.
Melrose Hospital & Pine Villa	STEARNS	MINNESOTA.
Paynesville Area Health Care	STEARNS	MINNESOTA.
Nye Regional Medical Center	NYE	NEVADA.
Lake Tahoe Medical Center	WASHOE	NEVADA.
Little Falls Hospital	HERKIMER	NEW YORK.
Northwood Deaconess Healthcare	GRAND FORKS	NORTH DAKOTA.
Fairfax Memorial Hospital	OSAGE	OKLAHOMA.
Pawhuska Hospital	OSAGE	OKLAHOMA.
Ashland Community Hospital	JACKSON	OREGON.
Cottage Grove Hospital	LANE	OREGON.
Peace Harbor Hospital	LANE	OREGON.
Jersey Shore Hospital	LYCOMING	PENNSYLVANIA.
Muncy Valley Hospital	LYCOMING	PENNSYLVANIA.
Angleton-Danbury General Hospital	BRAZORIA	TEXAS.
Brazosport Memorial Hospital	BRAZORIA	TEXAS.
Sweeny Community Hospital	BRAZORIA	TEXAS.
Kane County Hospital	KANE	UTAH.
Prosser Memorial Hospital	BENTON	WASHINGTON.
Providence Toppenish Hospital	YAKIMA	WASHINGTON.
Sunnyside Community Hospital	YAKIMA	WASHINGTON.

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 BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 410, 412, 413, and 485

[HCFA–1118–F]

RIN 0938–AK09

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2001 Rates

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

ACTION: Final rule.

SUMMARY: We are revising the Medicare hospital inpatient prospective payment system for operating costs to: implement applicable statutory requirements, including a number of provisions of the Medicare, Medicaid, and State Children’s Health Insurance Program Balanced Budget Refinement Act of 1999 (Pub. L. 106–113); and implement changes arising from our continuing experience with the system. In addition, in the Addendum to this final rule, we describe changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for

operating costs and capital-related costs. These changes apply to discharges occurring on or after October 1, 2000. We also set forth rate-of-increase limits and make changes to our policy for hospitals and hospital units excluded from the prospective payment systems.

We are making changes to the policies governing payments to hospitals for the direct costs of graduate medical education, sole community hospitals and critical access hospitals.

We are adding a new condition of participation on organ, tissue, and eye procurement for critical access hospitals that parallels the condition of participation that we previously published for all other Medicare-participating hospitals.

Lastly, we are finalizing a January 20, 2000 interim final rule with comment period (65 FR 3136) that sets forth the criteria to be used in calculating the Medicare disproportionate share adjustment in reference to Medicaid expansion waiver patient days under section 1115 of the Social Security Act.

DATES: The provisions of this final rule are effective October 1, 2000. This rule is a major rule as defined in 5 U.S.C. 804(2). Pursuant to 5 U.S.C. 801(a)(1)(A), we are submitting a report to Congress on this rule on August 1, 2000.

FOR FURTHER INFORMATION CONTACT:

Steve Phillips, (410) 786-4531, Operating Prospective Payment, Diagnostic Related Groups, Wage Index, Reclassifications, and Sole Community Hospital Issues
Tzvi Hefter, (410) 786-4487, Capital Prospective Payment, Excluded Hospitals, Graduate Medical Education and Critical Access Hospital Issues

SUPPLEMENTARY INFORMATION:

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I. Background

A. Summary

Section 1886(d) of the Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of hospital inpatient stays under a prospective payment system. Under these prospective payment systems, Medicare payment for hospital inpatient operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. Discharges are classified according to a list of diagnosis-related groups (DRGs).

Certain specialty hospitals are excluded from the prospective payment systems. Under section 1886(d)(1)(B) of the Act, the following hospitals and hospital units are excluded from the prospective payment systems: psychiatric hospitals and units, rehabilitation hospitals and units, children's hospitals, long-term care hospitals, and cancer hospitals. For these hospitals and units, Medicare payment for operating costs is based on reasonable costs subject to a hospital-specific annual limit.

Under sections 1820 and 1834(g) of the Act, payments are made to critical access hospitals (CAHs) (that is, rural nonprofit hospitals or facilities that meet certain statutory requirements) for inpatient and outpatient services on a reasonable cost basis. Reasonable cost is determined under the provisions of section 1861(v)(i)(A) of the Act and

existing regulations under 42 CFR Parts 413 and 415.

Under section 1886(a)(4) of the Act, costs of approved educational activities programs are excluded from the operating costs of inpatient hospital services. Hospitals with approved graduate medical education (GME) programs are paid for the direct costs of GME in accordance with section 1886(h) of the Act; the amount of payment for direct GME costs for a cost reporting period is based on the hospital's number of residents in that period and the hospital's costs per resident in a base year.

The regulations governing the hospital inpatient prospective payment system are located in 42 CFR Part 412. The regulations governing excluded hospitals and hospital units are located in 42 CFR Parts 412 and 413, and the GME regulations are located in 42 CFR Part 413.

On November 29, 1999, the Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP) Balanced Budget Refinement Act of 1999, Public Law 106-113, was enacted. Public Law 106-113 made a number of changes to the Act affecting prospective payments to hospitals for inpatient services and payments to excluded hospitals. This final rule implements amendments enacted by Public Law 106-113 relating to FY 2001 payments for GME costs, disproportionate share hospitals (DSHs), sole community hospitals (SCHs), and CAHs. These changes are addressed in sections IV and VI of this preamble.

Other related provisions of Public Law 106-113 that pertain to Medicare hospital inpatient payments with an effective date prior to October 1, 2000, are addressed in an interim final rule with comment period that is published elsewhere in this issue of the **Federal Register**.

Public Law 106-113 also amended section 1886(j) of the Act, which was added by section 4421 of the Balanced Budget Act of 1997 (Public Law 105-33). Section 1886(j) of the Act provides for a fully implemented prospective payment system for inpatient rehabilitation hospitals and rehabilitation units, effective for cost reporting periods beginning on or after October 1, 2002, with payment provisions during a transitional period of October 1, 2000 to October 1, 2002 based on target amounts specified in section 1886(b) of the Act. We are issuing a separate notice of proposed rulemaking to implement the prospective payment system for inpatient rehabilitation hospitals and units.

B. Summary of the Provisions of the May 5, 2000 Proposed Rule

On May 5, 2000, we published a proposed rule in the **Federal Register** (65 FR 26282) that set forth proposed changes to the Medicare hospital inpatient prospective payment system for operating costs for FY 2001. In the proposed rule, we made no policy changes relating to payments for capital-related costs under the hospital inpatient prospective payment system in FY 2001. However, we did propose changes to the amounts and factors used in determining the rates for capital-related costs for FY 2001. The proposed rule also included changes relating to payments for GME costs and payments to excluded hospitals and units, SCHs, and CAHs.

The following is a summary of the major changes we proposed and the issues we addressed in the May 5, 2000 proposed rule:

- We proposed changes to the FY 2001 DRG classifications and relative weights, as required by section 1886(d)(4)(C) of the Act.
- We proposed an update to the FY 2001 hospital wage index, using FY 1997 wage data. We also proposed to implement the second year phaseout of Part A physician teaching-related costs, Part A certified registered nurse anesthetist (CRNA) costs and resident costs from the FY 2001 wage index calculation.
- We discussed the impact of our policy on post acute care transfers and set forth certain proposed changes concerning sole community hospitals (SCHs), rural referral centers (RRCs), the indirect medical education adjustment, the DSH adjustment and collection of data on uncompensated costs for services furnished in hospitals, the Medicare Geographic Classification Review Board (MGCRB) classifications, and payment for the direct costs of GME.
- We discussed FY 2001 as the last year of a 10-year transition established to phase-in the prospective payment system for capital-related costs for inpatient hospital services.
- We discussed a number of proposals concerning excluded hospital and hospital units and CAHs. The proposed changes addressed limits on and adjustments to the proposed target amounts for FY 2001; development of a prospective payment system for inpatient rehabilitation hospitals and units; continuous improvement bonus payments; clarification that the 5-percent threshold used in calculating an excluded hospital's cost per discharge is based only on Medicare inpatients

discharged from the hospital-within-a-hospital; an all-inclusive payment rate option for CAHs; and adding a new condition of participation for CAHs relating to organ, tissue, and eye procurement.

- In the Addendum to the proposed rule, we set forth proposed changes to the amounts and factors for determining the FY 2001 prospective payment rates for operating costs and capital-related costs. We also addressed update factors for determining the rate-of-increase limits for cost reporting periods beginning in FY 2001 for hospitals and hospital units excluded from the prospective payment system.

- In Appendix A of the proposed rule, we set forth an analysis of the impact of the proposed changes on affected entities.

- In Appendix B of the proposed rule, we set forth the technical appendix on the proposed FY 2001 capital cost model.

- In Appendix C of the proposed rule, as required by section 1886(e)(3) (B) of the Act, we set forth our report to Congress on our initial estimate of a recommended update factor for FY 2001 for payments to hospitals included in the prospective payment systems, and hospitals excluded from the prospective payment systems.

- In Appendix D of the proposed rule, as required by sections 1886(e)(4) and (e)(5) of the Act, we included our recommendation of the appropriate percentage change for FY 2001 for:

- Large urban area and other area average standardized amounts (and hospital-specific rates applicable to sole community and Medicare-dependent, small rural hospitals) for hospital inpatient services paid for under the prospective payment system for operating costs; and
- Target rate-of-increase limits to the allowable operating costs of hospital inpatient services furnished by hospitals and hospital units excluded from the prospective payment system.

- In the proposed rule, we discussed recommendations by the Medicare Payment Advisory Commission (MedPAC) concerning hospital inpatient payment policies and presented our responses to those recommendations. Under section 1805(b) of the Act, MedPAC is required to submit a report to Congress that reviews and makes recommendations on Medicare payment policies no later than March 1 of each year. This year, MedPAC released a subsequent report in June containing additional recommendations. We respond to those recommendations in section IV.E. of this preamble.

C. Public Comments Received in Response to the Proposed Rule

We received a total of 290 timely items of correspondence containing multiple comments on the proposed rule. Major issues addressed by commenters included the creation of a new DRG for pancreas and kidney transplants, the adequacy of the DRG for heart assist devices, various aspects of the wage index calculation, rebasing of the SCH payment rates, and reclassification of hospitals.

Summaries of the public comments received and our responses to those comments are set forth below under the appropriate section heading.

D. Final Rule for the January 20, 2000 Interim Final Rule

On January 20, 2000, we published in the **Federal Register** an interim final rule with comment period (65 F 3136) to implement a change in the Medicare DSH adjustment calculation policy in reference to section 1115 expansion waiver days. The interim final rule set forth the criteria to use in calculating the Medicare DSH adjustment for hospitals for purposes of payment under the prospective payment system. This final rule finalizes the policy in this interim final rule with comment period. We discuss this policy in detail in Section IV.E.2. of this preamble.

II. Changes to DRG Classifications and Relative Weights

A. Background

Under the prospective payment system, we pay for inpatient hospital services on a rate per discharge basis that varies according to the DRG to which a beneficiary's stay is assigned. The formula used to calculate payment for a specific case 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 average resources used to treat cases in all DRGs.

Congress recognized that it would be necessary to recalculate the DRG relative weights periodically to account for changes in resource consumption. Accordingly, section 1886(d)(4)(C) of the Act requires that the Secretary adjust the DRG classifications and relative weights at least annually. These adjustments are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. Changes to the DRG classification system and the recalibration of the DRG

weights for discharges occurring on or after October 1, 2000, are discussed below.

B. DRG Reclassification

1. General

Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to eight additional diagnoses, and up to six procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnosis and procedure information is reported by the hospital using codes from the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM). Medicare fiscal intermediaries enter the information into their claims processing systems and subject it to a series of automated screens called the Medicare Code Editor (MCE). These screens are designed to identify cases that require further review before classification into a DRG.

After screening through the MCE and any further development of the claims, cases are classified into the appropriate DRG by the Medicare GROUPER software program. The GROUPER program was developed as a means of classifying each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). It is used both to classify past cases in order to measure relative hospital resource consumption to establish the DRG weights and to classify current cases for purposes of determining payment. The records for all Medicare hospital inpatient discharges are maintained in the Medicare Provider Analysis and Review (MedPAR) file. The data in this file are used to evaluate possible DRG classification changes and to recalibrate the DRG weights.

In the July 30, 1999 final rule (64 FR 41500), we discussed a process for considering non-MedPAR data in the recalibration process. In order for the use of particular data to be feasible, we must have sufficient time to evaluate and test the data. The time necessary to do so depends upon the nature and quality of the data submitted. Generally, however, a significant sample of the data should be submitted by August 1, approximately 8 months prior to the publication of the proposed rule, so that we can test the data and make a preliminary assessment as to the feasibility of using the data.

Subsequently, a complete database should be submitted no later than December 1 for consideration in conjunction with the next year's proposed rule, and as appropriate, in

the recalibration in the final rule following the proposed rule.

Currently, cases are assigned to one of 501 DRGs (including one DRG for a diagnosis that is invalid as a discharge diagnosis and one DRG for ungroupable diagnoses) in 25 major diagnostic categories (MDCs). Most MDCs are based on a particular organ system of the body (for example, MDC 6 (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)).

In general, cases are assigned to an MDC based on the principal diagnosis, before assignment to a DRG. However, there are presently five DRGs to which cases are directly assigned on the basis of procedure codes. These are the DRGs for liver, bone marrow, and lung transplants (DRGs 480, 481, and 495, respectively) and the two DRGs for tracheostomies (DRGs 482 and 483). Cases are assigned to these DRGs before classification to an MDC.

Within most MDCs, cases are then divided into surgical DRGs (based on a surgical hierarchy that orders individual procedures or groups of procedures by resource intensity) and medical DRGs. Medical DRGs generally are differentiated on the basis of diagnosis and age. Some surgical and medical DRGs are further differentiated based on the presence or absence of complications or comorbidities (CC).

Generally, the GROUPER does not consider other procedures; that is, nonsurgical procedures or minor surgical procedures generally not performed in an operating room are not listed as operating room (OR) procedures in the GROUPER decision tables. However, there are a few non-OR procedures that do affect DRG assignment for certain principal diagnoses, such as extracorporeal shock wave lithotripsy for patients with a principal diagnosis of urinary stones.

We proposed several changes to the DRG classification system for FY 2001 and discussed other issues concerning DRGs. The proposed changes, the public comments we received concerning them, and the final DRG changes are set forth below. Unless otherwise noted, the changes we are implementing will be effective in the revised GROUPER software (Version 18.0) to be implemented for discharges on or after October 1, 2000. (Also unless otherwise specified, our DRG analysis is based on the full (100 percent) FY 1999 MedPAR file (bills received through December 31, 1999 for discharges in FY 1999).

2. MDC 5 (Diseases and Disorders of the Circulatory System)

In the August 29, 1997 final rule with comment period (62 FR 45974), we noted that, because of the many recent changes in heart surgery, we were considering conducting a comprehensive review of the MDC 5 surgical DRGs. In the July 31, 1998 final rule with comment period (63 FR 40956), we did adopt some changes to the MDC 5 surgical DRGs. Since that time, we have received inquiries on a continuing basis regarding these DRGs. We have continued to review Medicare claims data and, based on our analysis, we proposed several DRG changes in MDC 5 in the May 5, 2000 proposed rule.

a. Heart Transplant (DRG 103). As previously stated, cases are generally assigned to an MDC based on principal diagnosis and subsequently assigned to surgical or medical DRGs included in that MDC. However, cases involving liver, bone marrow, and lung transplants (DRGs 480, 481, and 495, respectively) and the two DRGs for tracheostomies (DRGs 482 and 483) are directly assigned on the basis of procedure codes. Cases assigned to these DRGs before classification to an MDC are referred to as pre-MDC. However, cases involving heart transplants are currently assigned first to MDC 5 and then to DRG 103.

Currently, when a bone marrow transplant and a heart transplant are performed during the same admission, the case is assigned to DRG 481 (Bone Marrow Transplant). Because bone marrow transplant cases are first classified to pre-MDC, while heart transplants are first assigned to MDC 5, the bone marrow transplant assumes precedence in the assignment of the case to a DRG. However, payment for DRG 481 is substantially less than DRG 103. For FY 2000, the relative weight for DRG 103 is 19.5100, while the relative weight for DRG 481 is 8.7285.

To ensure appropriate DRG assignment of these cases, we proposed that the heart transplant DRG, which encompasses combined heart-lung transplantation (ICD-9-CM procedure code 33.6) and heart transplantation (ICD-9-CM procedure code 37.5) be assigned to pre-MDC. In this way, cases involving a bone marrow transplant and a heart transplant would be assigned to DRG 103 (DRG 103 would be reordered higher in the pre-MDC surgical hierarchy, as discussed in section II.B.5. of this preamble).

We received two comments in support of this proposed change and are adopting it as final.

b. Heart Assist Devices. We continue to review data in MDC 5 (Diseases and Disorders of the Circulatory System) to determine if cases are being assigned to the most appropriate DRG based on clinical coherence and similar resource consumption. At the December 1, 1994 ICD-9-CM Coordination and Maintenance Committee meeting, we recommended that new codes be created to capture single and bi-ventricular heart assist systems.

These codes, 37.65 (Implant of an external, pulsatile heart assist system) and 37.66 (Implant of an implantable, pulsatile heart assist system), were adopted for use for discharges occurring on or after October 1, 1995. However, code 37.66 was deemed investigational and was not considered a covered procedure. Effective May 5, 1997, we revised Medicare coverage of heart assist devices to allow coverage of a ventricular assist device (code 37.66) used for support of blood circulation postcardiotomy if certain conditions were met.

Due to some residual misunderstanding regarding this coverage policy, we emphasize that this device was and will continue to be listed as a noncovered procedure in the Medicare Code Editor (MCE), the front-end software product in the GROUPER program that detects and reports errors in the coding of claims data. The reason that this device is listed in the MCE, in spite of the fact that its implantation is covered, is because of the stringent conditions that must be met by hospitals in order to receive payment.

In the August 29, 1997 final rule (62 FR 45973), we moved procedure code 37.66 from DRGs 110 and 111¹ (Major Cardiovascular Procedures with and without CCs, respectively) to DRG 108 (Other Cardiothoracic Procedures). As stated in the July 31, 1998 final rule (63 FR 40956), we moved procedure code 37.66 to DRGs 104 and 105 (Cardiac Valve and Other Major Cardiothoracic Procedures with and without CCs, respectively) for FY 1999.

In the July 30, 1999 final rule (64 FR 41498), we responded to a comment suggesting that heart assist devices be assigned to DRG 103. For the proposed rule we reviewed the 100 percent FY 1999 MedPAR file containing bills through December 31, 1999, and found that there were a total of 47 implantable heart assist system procedures

performed on Medicare beneficiaries. Of these cases, 13 (approximately 28 percent) were assigned to DRG 103 (Heart Transplant) and four (approximately 9 percent) were assigned to DRG 483 (Tracheostomy Except for Face, Mouth and Neck Diagnoses), and, therefore, were paid at significantly higher rates than the remaining 30 cases. All of the procedure code 37.66 cases have extremely high charges, which is consistent with past analysis, and all of these cases are subject to payment as cost outliers.

Our data analysis indicated that the most cases in any one hospital was 5, while 17 hospitals performed only one heart assist system implant each. We reiterate that only heart transplant cases can be properly assigned to the transplant DRG (August 29, 1997 final rule (62 FR 45974)). Since heart assist devices are used across DRGs, many not involving a transplant, we did not propose to assign procedure code 37.66 to DRG 103.

In addition to the review of 37.66, we also looked at procedure codes 37.62 (Implant of other heart assist system), 37.63 (Replacement and repair of heart assist system), and 37.65 (Implant of an external, pulsatile heart assist system). These cases are currently assigned to DRGs 110 and 111 (Major Cardiovascular Procedures). We believe that these procedures are similar both clinically and in terms of resource utilization to procedure code 37.66, which is already assigned to DRGs 104 and 105. Therefore, we proposed to move codes 37.62, 37.63, and 37.65 from DRGs 110 and 111 to DRGs 104 and 105.

Comment: We received four comments on this proposal.

Two comments in favor of our proposal were received from national associations concerned with health care delivery.

Two commenters requested reevaluation of the DRG assignment of mechanical heart assist devices, particularly procedure code 37.66, and suggested that a new DRG be created to classify this technology, or that these cases be assigned to DRG 103 (Heart Transplant). The commenters pointed out that the heart assist implantation procedure is typically performed in the same medical centers by the same surgical teams as the heart transplant procedure.

With respect to our past decision not to assign cases with procedure code 37.66 to DRG 103, one commenter acknowledged our analysis of 1996 MedPAR data showing the costs of these cases to be more similar to DRGs 104 and 105 than DRG 103, but suggested

that we look at more recent data. The commenter also questioned our rationale for not assigning these cases to DRG 103 on the basis that heart assist devices are used across DRGs.

One commenter argued that, as all the cases with procedure code 37.66 were qualified as cost outliers, the misplacement of this procedure is evident. This commenter also noted that use of this procedure is likely to increase in the future and suggested that HCFA position itself ahead of the curve by increasing payment now in anticipation of this event. The commenter urged HCFA to examine the option of combining code 37.66 with other clinically similar low-volume procedures, and creating a new DRG that would more appropriately pay these cases. This recommended new DRG could conceivably include codes 37.62, 37.63, and 37.65, as they are similar both clinically and in terms of resource consumption.

Finally, one commenter expressed concern that the uncovered status of procedure code 37.66 in the MCE may be resulting in inappropriate payment denials. The commenter recommended that HCFA review the procedures employed by fiscal intermediaries to override the MCE edits.

Response: We are adopting our proposed change to assign procedure codes 37.62, 37.63, and 37.65 to DRGs 104 and 105.

With respect to the comments regarding procedure code 37.66, we have continually considered the issue of DRG assignment of heart assist devices since this technology was assigned an ICD-9-CM code in 1995, and became a Medicare covered procedure (if specific conditions were met) effective in 1997. As we noted in the proposed rule, these are costly cases that are currently spread across several DRGs. Although the outlier policy is intended to help hospitals offset unusually costly cases, we are concerned when a particular procedure always qualifies as an outlier case.

However, we do not believe it would be appropriate to redefine DRG 103 to include these cases at this time. The presently limited incidence of these cases, with very few cases occurring at any particular hospital over the course of a year, does not warrant disrupting the clinical coherence of DRG 103. The fact that these cases are spread across a number of DRGs indicates they do not represent a clinically cohesive group of patients in terms of their associated diagnoses or other procedures.

We will continue to monitor and evaluate these cases to determine whether a better approach might be

¹ A single title combined with two DRG numbers is used to signify pairs. Generally, the first DRG is for cases with CC and the second DRG is for cases without CC. If a third number is included, it represents cases with patients who are age 0-17. Occasionally, a pair of DRGs is split between age ≥17 and age 0-17.

identified, including the possibility of a new DRG for procedure codes 37.62, 37.63, 37.65, and 37.66. We note that the classification of patients into DRGs is a constantly evolving process. As there are changes in the coding system, data collection, medical technology, or medical practice, all DRG definitions will be reviewed and potentially revised.

Concerning the concept of HCFA positioning itself "ahead of the curve" by anticipating increased use of heart assist devices and raising payment accordingly, we are reluctant to attempt to predict future trends in medical practice, especially when such predictions would affect payments across all DRGs as a result of DRG recalibration. We appreciate the industry's continued interest in this system, and look forward to working together to arrive at equitable payments for this and other new technologies.

With respect to the comment concerning fiscal intermediary overrides of MCE edits listing procedure code 37.66 as noncovered, we will instruct our fiscal intermediaries to be aware of this issue. We are concerned that Medicare payment for this procedure be limited to those cases for which coverage is appropriate and that payment is not inappropriately denied.

c. Platelet Inhibitors. Effective October 1, 1998, procedure code 99.20 (Injection or infusion of platelet inhibitor) was created. The use of platelet inhibitors have been shown to significantly decrease the rate of acute vessel closure, as well as the rate of cardiac complications and death.² Platelet inhibitors are frequently administered to patients undergoing percutaneous transluminal coronary angioplasty (PTCA). In addition, patients admitted with unstable angina may also benefit from platelet inhibitors.² This procedure code is designated as a non-OR procedure that does not affect DRG assignment (platelet inhibitors are administered either through intravenous injection or infusion).

For the past 2 years, a manufacturer of platelet inhibitors has submitted data to support its position that cases involving platelet inhibitor therapy receiving angioplasty should be reclassified from DRG 112 (Percutaneous Cardiovascular Procedures) to DRG 116 (Other Permanent Cardiac Pacemaker Implant

or PTCA with Coronary Artery Stent Implant). Using the 100 percent FY 1999 MedPAR file that contains discharges through September 30, 1999, we performed analysis for the proposed rule of the cases for which procedure code 99.20 was reported. There were a total of 37,222 cases spread across 123 DRGs.

The majority of the platelet inhibitor cases, 28,022 (75 percent of all platelet inhibitor cases), are already assigned to DRG 116. The average standardized charges for these cases are approximately \$26,683, compared to approximately \$25,251 for DRG 116 overall. In DRG 112, there were 4,310 platelet inhibitor cases (12 percent of all platelet inhibitor cases) assigned. The average standardized charge for these cases is approximately \$22,786, compared to approximately \$20,224 for DRG 112 overall. Although the platelet inhibitor therapy cases that are classified to DRG 112 do have somewhat higher charges than the average case assigned to this DRG (11 percent, or \$2,563), we found several procedures in DRG 112 with average standardized charges higher than the platelet inhibitor cases. For example, there were 1,560 cases in which a single vessel PTCA or coronary atherectomy with thrombolytic agent (procedure code 36.02) was performed with an average standardized charge of approximately \$25,181, and there were 4,951 cases in which a multiple vessel PTCA or coronary atherectomy was performed, with or without a thrombolytic agent (procedure code 36.05) with an average standardized charge of approximately \$23,608.

We also noted that there are several procedures assigned to DRG 112 that have average standardized charges lower than the average charges for all cases in the DRG. For example, average charges for cases with procedure code 37.34 (Catheter ablation of lesion or tissues of heart) were \$18,429.

There is always some variation in charges within a DRG. The difference in variations of charges in DRG 112 is within the normal range of charge variations.

Clinical homogeneity within DRGs has always been a fundamental principle considered when assigning codes to appropriate DRGs. Currently, DRG 116 includes cases involving the insertion of a pacemaker as well as the insertion of coronary artery stents with PTCA. On the other hand, cases assigned to DRG 112 involve less invasive operating room and, in some cases, nonoperating room procedures.

The basis for DRG assignment has generally been the diagnosis of the

patient or the procedures performed. To the extent the use of a particular technology becomes prevalent in the treatment of a particular type of case, the DRG system is designed to account for any increases or decreases in costs through recalibration. Hospitals frequently benefit from this process while efficiency-enhancing technology is being introduced. 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 also discussed in the proposed rule our analysis of cases where platelet inhibitor therapy is targeted on acute coronary syndrome patients without coronary intervention. These cases are assigned to DRG 124 (Circulatory Disorders Except Acute Myocardial Infarction with Cardiac Catheterization and Complex Diagnosis) or DRG 140 (Angina Pectoris). The concern is that both types of cases, those performed in conjunction with coronary intervention and those without, be given an equal focus in this evaluation.

Based on our analysis, we found 410 platelet inhibitor cases (1 percent) assigned to DRG 124. This is a small percentage of cases in comparison to the overall total of 134,759 cases assigned to this DRG. The platelet inhibitor cases had an average standardized charge of approximately \$17,378 compared to approximately \$14,730 for DRG 124 overall. As we have indicated, there is always some variation in charges within a DRG and this difference is within normal variation.

There were 66 platelet inhibitor cases (0.2 percent) assigned to DRG 140. The average standardized charge for these cases is higher than the overall DRG charge, approximately \$8,992 and \$5,657, respectively. However, it represents a small percentage of the total (76,913) cases assigned to DRG 140.

In summary, currently 75 percent of cases where code 99.20 is present are assigned to DRG 116. The next most common DRG where these cases are assigned is DRG 112 (12 percent). Cases assigned to DRG 116 generally involve implantation of a pacemaker or artery stent, while cases assigned to DRG 112 involve percutaneous cardiovascular procedures. Our analysis found a \$3,897 difference between cases involving platelet inhibitor therapy that were assigned to DRG 116 and cases assigned to DRG 112, indicating a clinical distinction between the cases grouping to the two DRGs. Finally, among platelet

² Topol EJ and Serruys PW. "Frontiers in Interventional Cardiology." *Circulation*. 1998; 98: 1802. and Frishman W *et al.* "Medical therapies for the Prevention of Restenosis after Percutaneous Coronary Interventions." *Curr Probl Cardiol*. 1998; 23: 555.

inhibitor therapy cases that are assigned to DRG 112, our analysis found that the average charges are well within the normal variation around the overall average charges within the DRG. Based on these findings, we believe it would be inappropriate to assign all cases where procedure code 99.20 is present to DRG 116. Therefore, we did not propose to change our current policy that specifies that assignment of cases to this code does not affect the DRG assignment.

Comment: We received two comments on this issue. One commenter from a national hospital association supported not assigning code 99.20 to DRG 116. The other commenter argued that the analysis on which our position was based is flawed. This commenter believed that perhaps as many as five times the 37,222 cases we identified with ICD-9-CM procedure code 99.20 actually exist in the data but the procedure was not coded. To remedy this, the commenter suggested two options HCFA could pursue. The first option would be to reexamine the data file with the goal of excluding cases that appear to be miscoded. The commenter suggested that HCFA might check total pharmacy charges in MedPAR and exclude from the analysis cases without ICD-9-CM procedure code 99.20 that have pharmacy charges over a certain threshold (for example, a threshold of \$500). The second option would be to use outside data to capture pharmacy information which would provide more reliable information than coding with procedure code 99.20.

The commenter recommended that HCFA make a concerted effort, perhaps through the Medicare fiscal intermediaries, to instruct hospitals to use ICD-9-CM procedure code 99.20 on the claim of any case that receives any of the three platelet inhibitors.

Response: We appreciate the support of the hospital association for our position on this issue.

In response to the comment that the MedPAR data underreport procedure code 99.20 because the data do not affect DRG assignment and payment, we believe it is in hospitals' best interest to submit accurate billing data that are utilized in the DRG reclassification and recalibration of the DRG relative weights process.

We disagree with the recommendation that we exclude from our analysis any bill with over \$500 in pharmacy charges that does not report procedure code 99.20. We question the analytical validity of this approach, particularly given that many Medicare beneficiaries have multiple chronic conditions requiring multiple

medications. It is simply not possible to determine coding accuracy by reviewing charge data submitted on bills. The only way to identify coding errors would be to review the actual medical records. To exclude cases with pharmacy charges exceeding a certain predetermined threshold would likely skew the results of any such analysis.

We remain open to considering and using non-MedPAR data to make DRG changes if the data are reliable and validated. In the July 31, 1999 final rule (64 FR 41499), we described the timetable and process for interested parties to submit non-MedPAR data.

With respect to the recommendation that we make a concerted effort to ensure that hospitals use procedure code 99.20 appropriately, from the inception of this procedure code, effective October 1, 1998, HCFA has collaborated with the American Hospital Association (AHA) to educate coders on platelet inhibitor therapy. An extensive article in AHA's publication, *Coding Clinic for ICD-9-CM*, Fourth Quarter 1998, identifies the platelet inhibitor drugs and includes instructions on the appropriate code assignment. Coding instructions for platelet inhibitors are also available via the 1998 regulatory updates teleconference sponsored by AHA.

d. Extracorporeal Membrane Oxygenation. Extracorporeal Membrane Oxygenation (ECMO) is a cardiopulmonary bypass technique that offers long-term cardiopulmonary support to patients who have reversible cardiopulmonary insufficiency that has not responded to conventional management. It involves passing a patient's blood through an extracorporeal membrane oxygenator that adds oxygen and removes carbon dioxide. The oxygenated blood then is passed through a heat exchanger to warm it to body temperature prior to returning it to the patient. The process and equipment are similar to those used in open heart surgery, but are continued over prolonged periods of time. ECMO attempts to provide the patient with artificial cardiopulmonary function while his or her own cardiopulmonary functions are incapable of sustaining life.

Since ECMO involves the use of a device that sustains cardiopulmonary function while the underlying condition is being treated, it is important to identify and treat underlying conditions leading to cardiopulmonary failure if the patient is to return to normal cardiopulmonary function.

ECMO is assigned to procedure code 39.65 (Extracorporeal membrane oxygenation (ECMO)). This code is not

recognized as an OR procedure within the DRG system and, therefore, does not affect payment. To evaluate the appropriateness of payment under the current DRG assignment, we have reviewed a 10-percent sample of Medicare claims in the FY 1999 MedPAR file and found only 4 cases in which ECMO was used. The charges for these cases ranged from \$16,006 to \$198,014. Since medical literature indicates that ECMO is predominately used on newborns and pediatric cases, this low number of claims is not surprising. Only in recent years have some hospitals started to use ECMO on adults. It is reserved for cases facing almost certain mortality.

Because ECMO is a procedure clinically similar to a heart assist device, we proposed that procedure code 39.65 be classified as an OR procedure and be classified in DRGs 104 and 105 along with the heart assist system procedures (as discussed in section II.B.2.b. of this preamble). Those cases in which ECMO was provided, but for which the principal diagnosis is not classified to MDC 5, would then be assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This would be appropriate since it is possible that secondary conditions or complications may arise during hospitalization that would require the use of ECMO. The relatively high weight of DRG 468 would be appropriate for these cases.

Comment: We received two comments in support of the proposal to classify procedure code 39.65 as an OR procedure and then assign it to DRGs 104 and 105. One of the commenters stated that most of the adult patients receiving ECMO will fall within MDC 5 since ECMO is used for patients with severe, but reversible, heart or lung disorders that have not responded to the usual treatments of mechanical ventilation, medicines, and extra oxygen. The commenter further stated that these severely ill patients may continue on ECMO for a period of days or weeks until the heart or lungs recover, or until the treatment is no longer effective.

Response: We acknowledge the support of the commenters to classify 39.65 as an OR procedure and then assign it to DRGs 104 and 105 and are adopting our proposal as final.

3. MDC 15 (Newborns and Other Neonates With Conditions Originating in the Perinatal Period)

a. V05.8 (Vaccination for disease, NEC). DRG 390 (Neonate with Other Significant Problems) contains newborn or neonate cases with other significant

problems, not assigned to DRGs 385 through 389, DRG 391, or DRG 469. In order to be classified into DRG 391 (Normal Newborn), the neonate must have a principal diagnosis as listed under DRG 391 and either no secondary diagnosis or a secondary diagnosis as listed under DRG 391. Neonates with a secondary diagnosis of V05.8 (Vaccination for disease, NEC) are currently classified to DRG 390. Although it would seem that healthy newborns who receive vaccinations and have no other problems would be assigned to DRG 391, code V05.8 is not included as one of the secondary diagnoses under DRG 391, and therefore the case would not be classified as a normal newborn (DRG 391). Code V05.8 is assigned to DRG 390 as a default, since it is not included under another complicated neonate DRG or the normal newborn DRG.

In the proposed rule, we discussed our review of the appropriateness of including diagnosis code V05.8 on the list of acceptable secondary diagnoses under DRG 390 based on inquiries that we had received. We pointed out that by including V05.8 on the acceptable secondary diagnosis list for DRG 390, newborns who receive vaccinations are classified as having significant health problems. The inquirers believed this incorrectly labels an otherwise healthy newborn as having a significant medical condition. Providing a vaccination to a newborn is performed to prevent the infant from contracting a disease.

We agreed with the inquirers that, absent any evidence of disease, a newborn should not be considered as having a significant problem simply because a preventative vaccination was provided. Therefore, we proposed that V05.8 be removed from the list of acceptable secondary diagnoses under DRG 390 and assigned as a secondary diagnosis under DRG 391. In doing so, these cases would no longer be classified to DRG 390.

Comment: We received two comments in support of our proposal to remove code V05.8 from the list of acceptable secondary diagnoses under DRG 390. These commenters agreed that a prophylactic vaccination should not be classified as a significant problem. Newborns who receive these prophylactic vaccinations should still be considered normal newborns. We received no comments in opposition to the proposal.

Response: We are adopting the proposal to include V05.8 on the list of acceptable secondary diagnoses under DRG 391 Normal Newborn. Codes V05.3 (Viral hepatitis vaccination) and V05.4 (Varicella vaccination) are already listed

as acceptable secondary diagnoses under DRG 391.

b. Diagnosis code 666.02 (Third-stage postpartum hemorrhage, delivered with postpartum complication). Diagnosis code 666.02 is assigned to DRG 373 (Vaginal Delivery without Complicating Diagnoses). This DRG was created for uncomplicated vaginal deliveries. However, code 666.22 (Delayed and secondary postpartum hemorrhage, delivered with postpartum complication) is assigned to DRG 372 (Vaginal Delivery with Complicating Diagnoses). This means that mothers who have a delayed and secondary postpartum hemorrhage would be assigned to DRG 372, while mothers who have a third-stage postpartum hemorrhage would not be considered as a complicated delivery.

We believe a third-stage postpartum hemorrhage should be considered a complicating diagnosis and, in order to categorize these cases more appropriately, we proposed to move diagnosis code 666.02 from DRG 373 and assign it as a complicating diagnosis under DRG 372.

Comment: We received two comments supporting the proposal to classify 666.02 as a complicating diagnosis under DRG 372. The commenters agreed that a third-stage postpartum hemorrhage should be classified as a complicated delivery. There were no comments submitted in opposition to this change.

Response: We are adopting as final our proposal to classify 666.02 as a complication diagnosis under DRG 372.

c. Diagnosis Code 759.89 (Specified congenital anomalies, NEC) (Alport's Syndrome). Alport's Syndrome (also referred to as hereditary nephritis) is an inherited disorder involving damage to the kidney, blood in the urine, and, in some cases, loss of hearing. It may also include loss of vision. Patients who are not treated early enough or who do not respond to treatment may progress to renal failure. A kidney transplant is one treatment option for these cases. As with many of the congenital anomalies, there is no unique ICD-9-CM code for this condition. Alport's Syndrome, along with many other rare and diverse congenital anomalies, is assigned to the rather nonspecific diagnosis code 759.89 (Specific congenital anomalies, NEC). Examples include William Syndrome, Brachio-Oto-Renal Syndrome, and Costello's Syndrome. Each of these is a unique hereditary disorder affecting a variety of body systems.

Patients can be diagnosed and treated for congenital anomalies throughout their lives; treatment is not restricted to

the neonatal period. In our GROUPE, however, each diagnosis code is assigned to just one MDC. In this case, diagnosis code 759.89 is assigned to MDC 15 (Newborns and Other Neonates with Conditions Originating in the Perinatal Period) although the patient may be an adult.

In the proposed rule, we referred to a request from a physician concerning renal transplants for patients with Alport's Syndrome. The physician pointed out that when a patient with Alport's Syndrome is admitted for a kidney transplant, the case is assigned to DRG 390 (Neonate with Other Significant Problems). In these instances, when the principal diagnosis is code 759.89, the case is classified to MDC 15 although the patient may no longer be a newborn. The physician believed that these cases should be assigned to DRG 302 (Kidney Transplant).

The inquirer suggested moving diagnosis code 759.89 to MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract) so that when a kidney transplant is performed, it will be assigned to DRG 302. Although this seems quite appropriate for patients with Alport's Syndrome found in diagnosis code 759.89, it does not work well for the wide variety of patients also described by this code. Many others would be inappropriately classified to MDC 11.

Alport's Syndrome cases with code 759.89 as a principal diagnosis who receive a kidney transplant are assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This DRG has a FY 2000 relative weight of 3.6400. Also for FY 2000, DRG 302 (Kidney Transplant) has a relative weight of 3.5669. Therefore, the payment amounts are in fact comparable.

We discussed several options for resolving this issue:

(1) If the case is assigned a principal diagnosis code of renal failure with Alport's Syndrome as a secondary diagnosis, the case could be assigned to DRG 302. As this option would represent a change in the sequencing of congenital anomaly codes and related complications, it would have to be evaluated and subsequently approved by the Editorial Advisory Board for *Coding Clinic for ICD-9-CM*. The Editorial Advisory Board is comprised of representatives from the physician, coding, and hospital industry. Final decisions on coding policy issues are made by the representatives from the AHA, the American Health Information Management Association, the National Center for Health Statistics, and HCFA.

(2) A unique ICD-9-CM diagnosis code could be created for Alport's Syndrome that could then be evaluated for possible assignment within MDC 11. This issue has been referred to the National Center for Health Statistics for consideration as a future coding modification.

One difficulty with this option is the large number of congenital anomalies and the limited number of unused codes in this section of ICD-9-CM. Each new code must be carefully evaluated for appropriateness.

(3) A third option, which was already addressed, involves moving diagnosis code 759.89 to MDC 11. The problem with this approach is that many cases would then be misassigned to MDC 11 because the congenital anomaly would not involve diseases of the kidney and urinary tract.

(4) A fourth option would be to leave the coding and DRG assignment as they currently exist. Since few cases exist, the overall impact may be minimal.

To evaluate the impact of leaving the DRG assignment as it currently exists, in the proposed rule we examined data from a 10-percent sample of Medicare cases in the FY 1999 MedPAR file. There were 95 cases assigned to a wide range of DRGs with code 759.89 as a secondary diagnosis. There was only one case assigned to MDC 15 with a principal diagnosis of code 759.89.

In the proposed rule, we recommended that diagnosis code 759.89 remain in MDC 15, since it encompasses such a wide variety of conditions.

Comment: We received two comments in support of modifying the coding advice for this particular congenital anomaly so that renal failure is reported as the principal diagnosis and Alport's Syndrome is reported as a secondary diagnosis. One commenter pointed out that a distinction exists between those manifestations that are integral to the congenital anomaly (and thus, according to the official coding guidelines, would not be coded at all) and those that are not considered integral. This commenter also supported the recommendation for a change in guidelines that would allow sequencing a manifestation that is not integral to the congenital anomaly as the principal diagnosis. The other commenter indicated that while renal disease is usually present in Alport's Syndrome, it does not always lead to renal failure. The commenter also supported the reporting of renal failure as the principal diagnosis, with Alport's Syndrome as a secondary diagnosis.

Response: The coding and sequencing of Alport's Syndrome patients with renal failure who are admitted for renal

transplant were addressed at the June 2000 meeting of the Editorial Advisory Board of Coding Clinic for ICD-9-CM. *Coding Clinic for ICD-9-CM* is a publication of the AHA. The issue specifically addressed was whether the code used for Alport's Syndrome or the code for renal failure should be sequenced first when the patient is admitted for a renal transplant for the renal failure. In cases where manifestations are a key aspect of the congenital anomaly, the congenital anomaly code is usually sequenced first.

After careful evaluation, the Board determined that, in this specific case, the code for renal failure would be sequenced first, followed by the code for Alport's Syndrome. The Board also determined that renal failure is not always present for patients with Alport's Syndrome. These patients may, in fact, develop renal failure as a result of other factors. Therefore, hospitals do not have to sequence the congenital anomaly code first. By reporting renal failure as the principal diagnosis, the case is appropriately assigned to DRG 302. The Board's advice will be published in the third quarter 2000 issue of *Coding Clinic for ICD-9-CM* and will be effective for discharges occurring on or after September 1, 2000.

4. MDC 17 (Myeloproliferative Diseases and Disorders and Poorly Differentiated Neoplasm)

Diagnosis code 273.8 (Disorders of plasma protein metabolism, NEC) is assigned to DRG 403 (Lymphoma and Nonacute Leukemia with CC) and DRG 404 (Lymphoma and Nonacute Leukemia without CC). A disorder of plasma protein metabolism does not mean one has a lymphoma with nonacute leukemia. An individual can have a disorder of plasma protein metabolism without having a lymphoma or leukemia.

In the proposed rule, we considered the appropriateness of including diagnosis code 273.8 in DRGs 403 and 404. Disorders of plasma protein metabolism are not lymphomas or leukemia, thus diagnosis code 273.8 is more closely related to DRG 413 (Other Myeloproliferative Disorders or Poorly Differentiated Neoplasm Diagnoses with CC) and DRG 414 (Other Myeloproliferative Disorders or Poorly Differentiated Neoplasm Diagnoses without CC).

We also examined charge data drawn from cases assigned to diagnosis code 273.8 in a 10-percent sample of Medicare cases in the FY 1999 MedPAR file and found that the average charges for these cases were also more closely related to DRGs 413 and 414 than to

DRGs 403 and 404. We proposed to move diagnosis code 273.8 from DRGs 403 and 404 to DRGs 413 and 414.

We also noted that diagnosis code 273.8 is included in the following surgical DRGs that are performed on patients with lymphoma or leukemia:

- DRG 400 (Lymphoma and Leukemia with Major OR Procedure)
- DRG 401 (Lymphoma and Nonacute Leukemia with Other OR Procedure with CC)
- DRG 402 (Lymphoma and Nonacute Leukemia with Other OR Procedure without CC)

The same clinical issue would apply to these surgical DRGs performed on patients with lymphoma and leukemia. Code 273.8 should be assigned to the surgical DRGs for myeloproliferative disorders since the cases are clinically similar and, as stated before, code 273.8 is not clinically similar to lymphomas and leukemias. Therefore, we proposed to remove code 273.8 from the surgical DRGs related to lymphoma and leukemia (DRGs 400, 401, and 402) and assigned to the following myeloproliferative surgical DRGs, based on the procedure performed:

- DRG 406 (Myeloproliferative Disorders or Poorly Differentiated Neoplasms with Major OR Procedures with CC)
- DRG 407 (Myeloproliferative Disorders or Poorly Differentiated Neoplasms with Major OR Procedures without CC)
- DRG 408 (Myeloproliferative Disorders or Poorly Differentiated Neoplasms with Other OR Procedures)

Comment: We received two comments supporting our proposal to remove code 273.8 from the DRGs for lymphomas and leukemia (medical DRGs 403 and 404 as well as surgical DRGs 400 through 402). They supported moving 273.8 to the DRGs for other myeloproliferative disorders (medical DRGs 413 and 414 as well as surgical DRGs 406 through 408). One commenter also pointed out that code 273.9 (Unspecified disorder of plasma protein metabolism) is clinically similar to 273.8 and is also included with the DRGs for lymphomas and leukemia. The commenter asked if HCFA also planned to move 273.9 in a similar fashion to that proposed for code 273.8 since they appear to be companion codes. The commenter asserted that it was inappropriate to keep 273.9 in the DRGs for lymphoma and leukemia.

Response: We agree that code 273.8 should be moved out of the DRGs for lymphoma and leukemia and into the DRGs for other myeloproliferative disorders. Also, we agree with the commenter who stated that code 273.9

is clinically similar to 273.8 and should be treated in the same manner. Each code would be more appropriately assigned to the DRGS for other myeloproliferative disorders. Therefore, we are removing 273.9 from medical DRGS 403 and 404 and assigning it to DRGS 413 and 414. We are adopting as final our proposal to remove 273.8 from medical DRGS 403 and 404 and assign it to medical DRGs 413 and 414. We are also removing 273.8 and 273.9 from surgical DRGs 400, 401, and 402 and assigning them to surgical DRGs 406, 407, and 408.

5. Surgical Hierarchies

Some inpatient stays entail multiple surgical procedures, each one of which, occurring by itself, could result in assignment of the case to a different DRG within the MDC to which the principal diagnosis is assigned. Therefore, it is necessary to have a decision rule by which these cases are assigned to a single DRG. The surgical hierarchy, an ordering of surgical classes from most to least resource intensive, performs that function. Its application ensures that cases involving multiple surgical procedures are assigned to the DRG associated with the most resource-intensive surgical class.

Because the relative resource intensity of surgical classes can shift as a function of DRG reclassification and recalibration, we reviewed the surgical hierarchy of each MDC, as we have for previous reclassifications, to determine if the ordering of classes coincided with the intensity of resource utilization, as measured by the same billing data used to compute the DRG relative weights.

A surgical class can be composed of one or more DRGs. For example, in MDC 11, the surgical class "kidney transplant" consists of a single DRG (DRG 302) and the class "kidney, ureter and major bladder procedures" consists of three DRGs (DRGs 303, 304, and 305). Consequently, in many cases, the surgical hierarchy has an impact on more than one DRG. The methodology for determining the most resource-intensive surgical class involves weighting each DRG for frequency to determine the average resources for each surgical class. For example, assume surgical class A includes DRGs 1 and 2 and surgical class B includes DRGs 3, 4, and 5. Assume also that the average charge of DRG 1 is higher than that of DRG 3, but the average charges of DRGs 4 and 5 are higher than the average charge of DRG 2. To determine whether surgical class A should be higher or lower than surgical class B in the surgical hierarchy, we would weight the average charge of each DRG by

frequency (that is, by the number of cases in the DRG) to determine average resource consumption for the surgical class. The surgical classes would then be ordered from the class with the highest average resource utilization to that with the lowest, with the exception of "other OR procedures" as discussed below.

This methodology may occasionally result in a case involving multiple procedures being assigned to the lower-weighted DRG (in the highest, most resource-intensive surgical class) of the available alternatives. However, given that the logic underlying the surgical hierarchy provides that the GROUPE searches for the procedure in the most resource-intensive surgical class, this result is unavoidable.

We note that, notwithstanding the foregoing discussion, there are a few instances when a surgical class with a lower average relative weight is ordered above a surgical class with a higher average relative weight. For example, the "other OR procedures" surgical class is uniformly ordered last in the surgical hierarchy of each MDC in which it occurs, regardless of the fact that the relative weight for the DRG or DRGs in that surgical class may be higher than that for other surgical classes in the MDC. The "other OR procedures" class is a group of procedures that are least likely to be related to the diagnoses in the MDC but are occasionally performed on patients with these diagnoses. Therefore, these procedures should only be considered if no other procedure more closely related to the diagnoses in the MDC has been performed.

A second example occurs when the difference between the average weights for two surgical classes is very small. We have found that small differences generally do not warrant reordering of the hierarchy since, by virtue of the hierarchy change, the relative weights are likely to shift such that the higher-ordered surgical class has a lower average weight than the class ordered below it.

Based on the preliminary recalibration of the DRGs, we proposed to modify the surgical hierarchy as set forth below. As we stated in the September 1, 1989 final rule (54 FR 36457), we were unable to test the effects of proposed revisions to the surgical hierarchy and to reflect these changes in the proposed relative weights because the revised GROUPE software was unavailable at the time the proposed rule was completed. Rather, we simulated most major classification changes to approximate the placement of cases under the proposed

reclassification, then determined the average charge for each DRG. These average charges then served as our best estimate of relative resource use for each surgical class.

We proposed to revise the surgical hierarchy for the pre-MDC DRGs, MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue), and MDC 10 (Endocrine, Nutritional, and Metabolic Diseases and Disorders) as follows:

- In the pre-MDC DRGs, we proposed to move DRG 103 (Heart Transplant) from MDC 5 to pre-MDC. We proposed to reorder DRG 103 (Heart Transplant) above DRG 483 (Tracheostomy Except for Face, Mouth, and Neck Diagnoses).

- In the pre-MDC DRGs, we proposed to reorder DRG 481 (Bone Marrow Transplant) above DRG 495 (Lung Transplant).

- In MDC 8, we proposed to reorder DRG 230 (Local Excision and Removal of Internal Fixation Devices of Hip and Femur) above DRGs 226 and 227 (Soft Tissue Procedures).

- In MDC 10, we proposed to reorder DRG 288 (OR Procedures for Obesity) above DRG 285 (Amputation of Lower Limb for Endocrine, Nutritional, and Metabolic Disorders).

Comment: One commenter supported the surgical hierarchy proposals.

Another commenter opposed the reordering of DRG 230 above DRGs 226 and 227 in MDC 8. The commenter stated that, if both procedures are performed during the same operative episode, reordering DRGs 226 and 227 above DRG 230 would more appropriately capture facility resources.

Response: Although local excision and removal of internal fixation devices of hip and femur procedures may be less resource intensive than many of the surgical procedures in DRGs 226 and 227, we proposed the surgical hierarchy change because our data indicated cases of local excision and removal of internal fixation devices of hip and femur are more resource intensive than cases in DRGs 226 and 227. At the time of our proposed surgical hierarchy change, the average standardized charges for cases in DRG 230 were approximately \$1,000 more than the average standardized charges for cases in DRGs 226 and 227. We are adopting the proposed surgical hierarchy change as final so that cases with multiple procedures will be assigned to the higher-weighted DRG. We will continue to monitor the MDC 8 surgical hierarchy as part of our ongoing review.

Based on a test of the proposed revisions using the most recent MedPAR file and the final GROUPE software, we have found that all the proposed

revisions are still supported by the data and no additional changes are indicated. Therefore, we are adopting these changes in this final rule.

6. Refinement of Complications and Comorbidities (CC) List

In the September 1, 1987 final notice (52 FR 33143) concerning changes to the DRG classification system, we modified the GROUPER logic so that certain diagnoses included on the standard list of CCs would not be considered a valid CC in combination with a particular principal diagnosis. Thus, we created the CC Exclusions List. We made these changes for the following reasons: (1) To preclude coding of CCs for closely related conditions; (2) to preclude duplicative coding or inconsistent coding from being treated as CCs; and (3) to ensure that cases are appropriately classified between the complicated and uncomplicated DRGs in a pair. We developed this standard list of diagnoses using physician panels to include those diagnoses that, when present as a secondary condition, would be considered a substantial complication or comorbidity. In previous years, we have made changes to the standard list of CCs, either by adding new CCs or deleting CCs already on the list. In the May 5, 2000 proposed rule, we proposed no deletions of the diagnosis codes on the CC list.

In the May 19, 1987 proposed notice (52 FR 18877) concerning changes to the DRG classification system, we explained that the excluded secondary diagnoses were established using the following five principles:

- Chronic and acute manifestations of the same condition should not be considered CCs for one another (as subsequently corrected in the September 1, 1987 final notice (52 FR 33154)).
- Specific and nonspecific (that is, not otherwise specified (NOS)) diagnosis codes for a condition should not be considered CCs for one another.
- Conditions that may not coexist, such as partial/total, unilateral/bilateral, obstructed/unobstructed, and benign/malignant, should not be considered CCs for one another.
- The same condition in anatomically proximal sites should not be considered CCs for one another.
- Closely related conditions should not be considered CCs for one another.

The creation of the CC Exclusions List was a major project involving hundreds of codes. The FY 1988 revisions were intended only as a first step toward refinement of the CC list in that the criteria used for eliminating certain diagnoses from consideration as CCs

were intended to identify only the most obvious diagnoses that should not be considered complications or comorbidities of another diagnosis. For that reason, and in light of comments and questions on the CC list, we have continued to review the remaining CCs to identify additional exclusions and to remove diagnoses from the master list that have been shown not to meet the definition of a CC. See the September 30, 1988 final rule (53 FR 38485) for the revision made for the discharges occurring in FY 1989; the September 1, 1989 final rule (54 FR 36552) for the FY 1990 revision; the September 4, 1990 final rule (55 FR 36126) for the FY 1991 revision; the August 30, 1991 final rule (56 FR 43209) for the FY 1992 revision; the September 1, 1992 final rule (57 FR 39753) for the FY 1993 revision; the September 1, 1993 final rule (58 FR 46278) for the FY 1994 revisions; the September 1, 1994 final rule (59 FR 45334) for the FY 1995 revisions; the September 1, 1995 final rule (60 FR 45782) for the FY 1996 revisions; the August 30, 1996 final rule (61 FR 46171) for the FY 1997 revisions; the August 29, 1997 final rule (62 FR 45966) for the FY 1998 revisions; and the July 31, 1998 final rule (63 FR 40954) for the FY 1999 revisions. In the July 30, 1999 final rule (64 FR 41490), no modifications were made to the CC Exclusions List for FY 2000 because we made no changes to the ICD-9-CM codes for FY 2000.

In this final rule, we are making limited revisions of the CC Exclusions List to take into account the changes that will be made in the ICD-9-CM diagnosis coding system effective October 1, 2000. (See section II.B.8. below, for a discussion of ICD-9-CM changes.) These changes are being made in accordance with the principles established when we created the CC Exclusions List in 1987.

Tables 6F and 6G in section V. of the Addendum to this final rule contain the revised CC Exclusions List that is effective for discharges occurring on or after October 1, 2000. Each table shows the principal diagnoses along with changes to the excluded CCs. Each of these principal diagnoses is shown with an asterisk and the additions or deletions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

CCs that were added to the list appear in Table 6F—Additions to the CC Exclusions List. Beginning with discharges on or after October 1, 2000, the indented diagnoses will not be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

CCs that were deleted from the list are in Table 6G—Deletions from the CC Exclusions List. Beginning with discharges on or after October 1, 2000, the indented diagnoses will be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

Copies of the original CC Exclusions List applicable to FY 1988 can be obtained from the National Technical Information Service (NTIS) of the Department of Commerce. It is available in hard copy for \$92.00 plus \$6.00 shipping and handling and on microfiche for \$20.50, plus \$4.00 for shipping and handling. A request for the FY 1988 CC Exclusions List (which should include the identification accession number (PB) 88-133970) should be made to the following address: National Technical Information Service, United States Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161; or by calling (703) 487-4650.

Users should be aware of the fact that all revisions to the CC Exclusions List (FYs 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, and those in Tables 6F and 6G of this document) must be incorporated into the list purchased from NTIS in order to obtain the CC Exclusions List applicable for discharges occurring on or after October 1, 2000. (Note: There was no CC Exclusions List in FY 2000 because we did not make changes to the ICD-9-CM codes for FY 2000.)

Alternatively, the complete documentation of the GROUPER logic, including the current CC Exclusions List, is available from 3M/Health Information Systems (HIS), which, under contract with HCFA, is responsible for updating and maintaining the GROUPER program. The current DRG Definitions Manual, Version 17.0, is available for \$225.00, which includes \$15.00 for shipping and handling. Version 18.0 of this manual, which includes the final FY 2001 DRG changes, will be available in October 2000 for \$225.00. These manuals may be obtained by writing 3M/HIS at the following address: 100 Barnes Road, Wallingford, Connecticut 06492; or by calling (203) 949-0303. Please specify the revision or revisions requested.

We received no comments on the CC Exclusions List in the proposed rule.

7. Review of Procedure Codes in DRGs 468, 476, and 477

Each year, we review cases assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis), DRG 476 (Prostatic OR Procedure Unrelated to Principal Diagnosis), and DRG 477

(Nonextensive OR Procedure Unrelated to Principal Diagnosis) to determine whether it would be appropriate to change the procedures assigned among these DRGs.

DRGs 468, 476, and 477 are reserved for those cases in which none of the OR procedures performed is related to the principal diagnosis. These DRGs are intended to capture atypical cases, that is, those cases not occurring with sufficient frequency to represent a distinct, recognizable clinical group. DRG 476 is assigned to those discharges in which one or more of the following prostatic procedures are performed and are unrelated to the principal diagnosis:

- 60.0 Incision of prostate
- 60.12 Open biopsy of prostate
- 60.15 Biopsy of periprostatic tissue
- 60.18 Other diagnostic procedures on prostate and periprostatic tissue
- 60.21 Transurethral prostatectomy
- 60.29 Other transurethral prostatectomy
- 60.61 Local excision of lesion of prostate
- 60.69 Prostatectomy NEC
- 60.81 Incision of periprostatic tissue
- 60.82 Excision of periprostatic tissue
- 60.93 Repair of prostate
- 60.94 Control of (postoperative) hemorrhage of prostate
- 60.94 Transurethral balloon dilation of the prostatic urethra
- 60.99 Other operations on prostate

All remaining OR procedures are assigned to DRGs 468 and 477, with DRG 477 assigned to those discharges in which the only procedures performed are nonextensive procedures that are unrelated to the principal diagnosis. The original list of the ICD-9-CM procedure codes for the procedures we consider nonextensive procedures, if performed with an unrelated principal diagnosis, was published in Table 6C in section IV. of the Addendum to the September 30, 1988 final rule (53 FR 38591). As part of the final rules published on September 4, 1990 (55 FR 36135), August 30, 1991 (56 FR 43212), September 1, 1992 (57 FR 23625), September 1, 1993 (58 FR 46279), September 1, 1994 (59 FR 45336), September 1, 1995 (60 FR 45783), August 30, 1996 (61 FR 46173), and August 29, 1997 (62 FR 45981), we moved several other procedures from DRG 468 to 477, and some procedures from DRG 477 to 468. No procedures were moved in FY 1999, as noted in the July 31, 1998 final rule (63 FR 40962), or in FY 2000, as noted in the July 30, 1999 final rule (64 FR 41496).

a. Moving Procedure Codes from DRGs 468 or 477 to MDCs. We annually conduct a review of procedures producing assignment to DRG 468 or DRG 477 on the basis of volume, by procedure, to determine the appropriateness of moving procedure

codes out of these DRGs into one of the surgical DRGs for the MDC into which the principal diagnosis falls. The data are arrayed two ways for comparison purposes. We look at a frequency count of each major operative procedure code. We also compare procedures across MDCs by volume of procedure codes within each MDC. That is, using procedure code 57.49 (Other transurethral excision or destruction of lesion or tissue of bladder) as an example, we determined that this particular code accounted for the highest number of major operative procedures (162 cases, or 9.8 percent of all cases) reported in the sample of DRG 477. In addition, we determined that procedure code 57.49 appeared in MDC 4 (Diseases and Disorders of the Respiratory System) 28 times as well as in 9 other MDCs.

Using a 10-percent sample of the FY 1999 MedPAR file, we determined that the quantity of cases in DRG 477 totaled 1,650. There were 106 instances where the major operative procedure appeared only once (6.4 percent of the time), resulting in assignment to DRG 477.

Using the same 10-percent sample of the FY 1999 MedPAR file, we reviewed DRG 468. There were a total of 3,858 cases, with one major operative code causing the DRG assignment 311 times (or 8 percent) and 230 instances where the major operative procedure appeared only once (or 6 percent of the time).

Our medical consultants then identified those procedures occurring in conjunction with certain principal diagnoses with sufficient frequency to justify adding them to one of the surgical DRGs for the MDC in which the diagnosis falls. Based on this year's review, we did not identify any necessary changes in procedures under either DRG 468 or 477 and, therefore, did not propose to move any procedures from either DRG 468 or DRG 477 to one of the surgical DRGs. We received no comments on our review results and, therefore, we will not move any procedures from these DRGs for FY 2001.

b. Reassignment of Procedures Among DRGs 468, 476, and 477. We also conduct an annual review of a list of ICD-9-CM procedures that, when in combination with their principal diagnosis code, result in assignment to DRGs 468, 476, and 477, to ascertain if any of those procedures should be moved from one of these DRGs to another of these DRGs based on average charges and length of stay. We analyze the data for trends such as shifts in treatment practice or reporting practice that would make the resulting DRG assignment inappropriate. If our

medical consultants were to find these shifts, we would propose moving cases to keep the DRGs clinically similar or to provide payment for the cases in a similar manner. Generally, we move only those procedures for which we have an adequate number of discharges to analyze the data. Based on this year's review, we proposed not to move any procedures from DRG 468 to DRGs 476 or 477, from DRG 476 to DRGs 468 or 477, or from DRG 477 to DRGs 468 or 476. We received no comments on this proposal, and therefore are not moving any procedures from the DRGs indicated.

c. Adding Diagnosis Codes to MDCs.

It has been brought to our attention that an ICD-9-CM diagnosis code should be added to DRG 482 (Tracheostomy for Face, Mouth and Neck Diagnoses) to preserve clinical coherence and homogeneity of the system. In the case of a patient who has a facial infection (diagnosis code 682.0 (Other cellulitis and abscess, Face)), the face may become extremely swollen and the patient's ability to breathe might be impaired. It might be deemed medically necessary to perform a temporary tracheostomy (procedure code 31.1) on the patient until the swelling subsides enough for the patient to once again breathe on his or her own.

The combination of diagnosis code 682.0 and procedure code 31.1 resulted in assignment to DRG 483 (Tracheostomy Except for Face, Mouth and Neck Diagnoses). The absence of diagnosis code 682.0 in DRG 483 forces the GROUPER algorithm to assign the case based solely on the procedure code, without taking this diagnosis into account. Clearly this was not the intent, as diagnosis code 682.0 should be included with other face, mouth and neck diagnosis. We believe that cases such as these would appropriately be assigned to DRG 482. Therefore, we proposed to add diagnosis code 682.0 to the list of other face, mouth and neck diagnoses already in the principal diagnosis list in DRG 482.

We received one comment in support of the proposed change, and are adopting as final the proposal to add diagnosis code 682.0 to DRG 482.

8. Changes to the ICD-9-CM Coding System

As described in section II.B.1 of this preamble, the ICD-9-CM is a coding system that is used for the reporting of diagnoses and procedures performed on a patient. In September 1985, the ICD-9-CM Coordination and Maintenance Committee was formed. This is a Federal interdepartmental committee, co-chaired by the National Center for

Health Statistics (NCHS) and HCFA, charged with maintaining and updating the ICD-9-CM system. The Committee is jointly responsible for approving coding changes, and developing errata, addenda, and other modifications to the ICD-9-CM to reflect newly developed procedures and technologies and newly identified diseases. The Committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and upgrading the quality of the classification system.

The NCHS has lead responsibility for the ICD-9-CM diagnosis codes included in the *Tabular List* and *Alphabetic Index for Diseases*, while HCFA has lead responsibility for the ICD-9-CM procedure codes included in the *Tabular List* and *Alphabetic Index for Procedures*.

The Committee encourages participation in the above process by health-related organizations. In this regard, the Committee holds public meetings for discussion of educational issues and proposed coding changes. These meetings provide an opportunity for representatives of recognized organizations in the coding field, such as the American Health Information Management Association (AHIMA) (formerly American Medical Record Association (AMRA)), the AHA, and various physician specialty groups as well as physicians, medical record administrators, health information management professionals, and other members of the public to contribute ideas on coding matters. After considering the opinions expressed at the public meetings and in writing, the Committee formulates recommendations, which then must be approved by the agencies.

The Committee presented proposals for coding changes for FY 2000 at public meetings held on June 4, 1998 and November 2, 1998. Even though the

Committee conducted public meetings and considered approval of coding changes for FY 2000 implementation, we did not implement any changes to ICD-9-CM codes for FY 2000 because of our major efforts to ensure that all of the Medicare computer systems were compliant with the year 2000. Therefore, the code proposals presented at the public meetings held on June 4, 1998 and November 2, 1998, that (if approved) ordinarily would have been included as new codes for October 1, 1999, were held for consideration for inclusion in the annual update for FY 2001.

The Committee also presented proposals for coding changes for implementation in FY 2001 at public meetings held on May 13, 1999 and November 12, 1999, and finalized the coding changes after consideration of comments received at the meetings and in writing by January 7, 2000.

Copies of the Coordination and Maintenance Committee minutes of the 1999 meetings can be obtained from the HCFA Home Page by typing <http://www.hcfa.gov/medicare/icd9cm.htm>. Paper copies of these minutes are no longer available and the mailing list has been discontinued.

The ICD-9-CM code changes that have been approved will become effective October 1, 2000. The new ICD-9-CM codes are listed, along with their DRG classifications, in Tables 6A and 6B (New Diagnosis Codes and New Procedure Codes, respectively) in section VI. of the Addendum to this final rule. As we stated above, the code numbers and their titles were presented for public comment at the ICD-9-CM Coordination and Maintenance Committee meetings. Both oral and written comments were considered before the codes were approved. In the May 5, 2000 proposed rule, we solicited comments only on the proposed DRG classification of these new codes.

Further, the Committee has approved the expansion of certain ICD-9-CM

codes to require an additional digit for valid code assignment. Diagnosis codes that have been replaced by expanded codes or other codes, or have been deleted are in Table 6C (Invalid Diagnosis Codes). These invalid diagnosis codes will not be recognized by the GROUPER beginning with discharges occurring on or after October 1, 2000. For codes that have been replaced by new or expanded codes, the corresponding new or expanded diagnosis codes are included in Table 6A (New Diagnosis Codes). No procedure codes were replaced by expanded codes or other codes, and no procedure codes were deleted. Revisions to diagnosis code titles appear in Table 6D (Revised Diagnosis Code Titles), which also includes the DRG assignments for these revised codes. Revisions to procedure code titles appear in Table 6E (Revised Procedure Codes Titles).

Comment: One commenter questioned the DRG assignments in Table 6A for new ICD-9-CM codes V45.74, V45.76, V45.77, V45.78 and V45.79. The commenter pointed out that it has been HCFA's longstanding practice to assign a new code to the same DRG or DRGs as its predecessor code. The commenter had seen a draft conversion table prepared by the NCHS for codes being revised October 1, 2000, and indicated that the conversion table did not support the DRG assignments for these specific codes.

Response: The commenter is correct. HCFA bases DRG assignments on the DRG assignment of the predecessor code. Tables 6A through 6E in the proposed rule were prepared prior to NCHS' completion of the conversion table. The DRG assignments were based on a mapping of codes V45.74, V45.76, V45.77, and V45.78 from code V45.89. However, the correct mapping on the conversion table now shows the following predecessor codes:

New Code	Previous Code	Previous DRG
V45.74	593.89	331, 332, 333
	596.8	331, 332, 333
V45.76	518.89	101, 102
V45.77	602.8	352
	607.89	352
	608.89	352
	620.8	358, 359, 369
	621.8	358, 359, 369
	622.8	358, 359, 369
V45.78	360.89	46, 47, 48
V45.79	255.8	300, 301
	289.59	398, 399
	388.8	73, 74
	569.49	188, 189, 190
	577.8	204

New Code	Previous Code	Previous DRG
	V45.89	467

We have modified the DRG assignments for V45.74, V45.76, V45.77, and V45.78 in Table 6A of this final rule according to the mapping indicated in the third column in the preceding table. However, V45.79 has a number of predecessor codes appearing in multiple MDCs and, thus, would not relate to any specific MDC. After discussions with NCHS, we determined that this code should continue to use V45.89 as its predecessor code for purposes of DRG assignment, since it is not restricted to a specific body system. Therefore, the DRG assignment for V45.79 was not changed in Table 6A.

9. Other Issues

a. Immunotherapy. Effective October 1, 1994, procedure code 99.28 (Injection or infusion of biologic response modifier (BRM) as an antineoplastic agent) was created and designated as a non-OR procedure that does not affect DRG assignment. This cancer treatment involving biological response modifiers is also known as BRM therapy or immunotherapy.

In response to a comment on the May 7, 1999 proposed rule, for the FY 2000 final rule we analyzed cases for which procedure code 99.28 was reported using the 100 percent FY 1998 MedPAR file. The commenter requested that we create a new DRG for BRM therapy or assign cases in which BRM therapy is performed to an existing DRG with a high relative weight. The commenter suggested that DRG 403 (Lymphoma and Nonacute Leukemia with CC) would be an appropriate DRG.

For the proposed rule, we analyzed all cases for which procedure code 99.28 was reported. We identified 1,179 cases in 136 DRGs in 22 MDCs. No more than 141 cases were assigned to any one particular DRG.

Of the 1,179 cases, 141 cases (approximately 12 percent) were assigned to DRG 403 in MDC 17. We found approximately one-half of these cases had other procedures performed in addition to receiving immunotherapy, such as chemotherapy, bone marrow biopsy, insertion of totally implantable vascular access device, thoracentesis, or percutaneous abdominal drainage, which may account for the increased charges. There were 123 immunotherapy cases assigned to DRG 82 (Respiratory Neoplasms) in MDC 4 (Diseases and Disorders of the Respiratory System). We noted that, in

some cases, in addition to immunotherapy, other procedures were performed, such as insertion of an intercostal catheter for drainage, thoracentesis, or chemotherapy.

There were 84 cases assigned to DRG 416 (Septicemia, Age >17) in MDC 18 (Infectious and Parasitic Diseases (Systemic or Unspecified Sites)). The principal diagnosis for this DRG is septicemia and, in addition to receiving treatment for septicemia, immunotherapy was also given. There were 79 cases assigned to DRG 410 (Chemotherapy without Acute Leukemia as Secondary Diagnosis) in MDC 17.

The cost of immunotherapy is averaged into the weight for these DRGs and, based on our analysis, we did not believe a reclassification of these cases was warranted. Due to the limited number of cases that were distributed throughout 136 DRGs in 22 MDCs and the variation of charges, we concluded that it would be inappropriate to classify these cases into a single DRG.

Although there were 141 cases assigned to DRG 403, it would be inappropriate to place all immunotherapy cases, regardless of diagnosis, into a DRG that is designated for lymphoma and nonacute leukemia. We establish DRGs based on clinical coherence and resource utilization. Each DRG encompasses a variety of cases, reflecting a range of services and a range of resources. Generally, then, each DRG reflects some higher cost cases and some lower cost cases. To the extent a new technology is extremely costly relative to the cases reflected in the DRG relative weight, the hospital might qualify for outlier payments, that is, additional payments over and above the standard prospective payment rate.

We did not receive any comments regarding payment for immunotherapy cases.

b. Pancreas Transplant. Effective July 1, 1999, Medicare covers whole organ pancreas transplantation if the transplantation is performed simultaneously with or after a kidney transplant (procedure codes 55.69, Other kidney transplantation, and V42.0, Organ or tissue replaced by transplant, Kidney) (Transmittal No. 115, April 1999). We noted that when we published the notification of this coverage in the July 30, 1999 final rule (64 FR 41497), we inadvertently made an error in announcing the covered

codes. We cited the incorrect codes for pancreas transplantation as procedure code 52.80 (Pancreatic transplant, not otherwise specified) and 52.83 (Heterotransplant of pancreas). The correct procedure codes for pancreas transplantation are 52.80 (Pancreatic transplant, not otherwise specified) and 52.82 (Homotransplant of pancreas). The Coverage Issues Manual was revised to reflect this change via Transmittal 124, April 2000, effective October 1, 2000.

Pancreas transplantation is generally limited to those patients with severe secondary complications of diabetes, including kidney failure. However, pancreas transplantation is sometimes performed on patients with labile diabetes and hypoglycemic unawareness. Pancreas transplantation for diabetic patients who have not experienced end-stage renal failure secondary to diabetes is excluded from coverage. Medicare also excludes coverage of transplantation of partial pancreatic tissue or islet cells.

In the July 30, 1999 final rule (64 FR 41497), we indicated that we planned to review discharge data to determine whether a new DRG should be created, or existing DRGs modified, to further classify pancreas transplantation in combination with kidney transplantation.

Under the current DRG classification, if a kidney transplant and a pancreas transplant are performed simultaneously on a patient with chronic renal failure secondary to diabetes with renal manifestations (diagnosis codes 250.40 through 250.43), the case is assigned to DRG 302 (Kidney Transplant) in MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract). If a pancreas transplant is performed following a kidney transplant (that is, during a different hospital admission) on a patient with chronic renal failure secondary to diabetes with renal manifestations, the case is assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This is because pancreas transplant is not assigned to MDC 11, the MDC to which a principal diagnosis of chronic renal failure secondary to diabetes is assigned.

For the proposed rule, using 100 percent of the data in the FY 1999 MedPAR file (which contains hospital bills received for FY 1999 through

December 31, 1999), we analyzed the cases for which procedure codes 52.80 and 52.83 were reported. We identified a total of 79 cases in 8 DRGs, in 3 MDCs, and in 1 pre-MDC. Of the 79 cases identified, 49 cases were assigned to DRG 302, 14 cases were assigned to DRG 468, and 8 cases were assigned to DRG 191 (Pancreas, Liver and Shunt Procedures with CC). The additional 8 cases were distributed over 5 other assorted DRGs, and due to their disparity, were not considered in our evaluation.

We examined our data to determine whether it was appropriate to propose a new kidney and pancreas transplant DRG. We identified 49 such dual transplant cases in the FY 1999 MedPAR file. We do not believe this to be a sufficient sample size to warrant the creation of a new DRG. Furthermore, we noted that nearly half of these cases occurred at a hospital in Maryland, which is not paid under the prospective payment system. The rest of the cases are spread across multiple hospitals, with no single hospital having more than 5 cases in the FY 1999 MedPAR.

We received 261 comments on this issue, 244 of which were form letters.

We will continue to monitor these dual transplant cases to determine whether it may be appropriate in the future to establish a new DRG. However, we are not establishing a new DRG for these cases for FY 2001 and the current procedure code classification will remain in effect.

Comment: All commenters called for the establishment of a unique DRG recognizing the combined transplant of kidney and pancreas in the same operative episode. Some commenters cited increased utilization of hospital resources, especially operating-room time, recovery time, and immunosuppressive drugs as justification for a separate DRG for a combined pancreas-kidney transplant. One commenter forwarded to us facility-specific charge data for four dual-transplant patients seen at that center through December 1997.

Response: We stated in the proposed rule that there does appear to be a difference between the charges for dual kidney-pancreas transplant patients assigned to DRG 302 (Kidney Transplant) and those patients who received only a kidney transplant. However, the numbers of dual transplant cases in our database were insufficient to warrant establishing a new DRG for dual transplants.

We point out that, given the low volume of these cases and their infrequent occurrence in any particular hospital, we believe our outlier policy

will provide adequate protection for any extraordinarily costly cases.

Furthermore, there is always variation in terms of the costs for cases within a DRG relative to the payments under the prospective payment system for that DRG. Although examining these cases in isolation from other DRG 302 cases appears to suggest that dual transplants are more expensive, the nature of the prospective payment system is such that hospitals are expected to be able to offset cases where costs are greater than payments with those cases where payments exceed costs.

We further point out that additional Medicare coverage of a transplanted organ does not necessarily and immediately result in creation of a unique DRG. A specific example of not creating a unique DRG is the combined heart-lung transplant procedure. Effective for discharges occurring on or after October 1, 1990, Medicare was able to identify combined heart-lung transplant using ICD-9-CM code 33.6 (Combined heart-lung transplantation). Instead of assigning this new code to its own specific DRG, however, it was combined with heart transplant in DRG 103 (Heart Transplant). When DRG 495 (Lung Transplant) was created for cases discharged on or after October 1, 1994, review of our data revealed that assignment of code 33.6 was more clinically coherent with DRG 103 than DRG 495. Therefore, code 33.6 was not moved into the new lung transplant DRG. Although this does not indicate we will not create a distinct DRG for combined kidney and pancreas transplants, it does show a precedent for allowing a sufficient sample of cases to accumulate before deciding whether a new DRG is necessary.

Finally, one of the risks of establishing a new DRG based on few documentable cases is that a few extremely low-cost cases could dramatically reduce the average charges in a year, thereby lowering the relative weight and potentially underpaying cases in this DRG by a significant amount.

Comment: Several commenters argued that combined pancreas and kidney transplants are underpaid every time they are performed and expressed concern that this lack of funding provides limited access to this procedure for Medicare beneficiaries.

Response: We do not believe that beneficiaries' access will be limited by our decision. In addition, it is a violation of a hospital's Medicare provider agreement to place restrictions on the number of Medicare beneficiaries it accepts for treatment unless it places

the same restrictions on all other patients.

Comment: One commenter argued that the incremental cost of the pancreas transplant was insufficient to cause the claim to move into outlier status.

Response: Our data show covered charges submitted by hospitals ranging from a low of approximately \$42,000 to a high in excess of \$182,000 for cases in DRG 302. Outlier payments are meant to alleviate the financial effects of treating extraordinarily high-cost cases. Therefore, the commenter may be correct in saying that some of the cases with lower charges might not be further compensated by outlier payments. However, other cases are further compensated to mitigate losses experienced by hospitals.

Comment: One commenter stated we underrepresented the volume of future dual transplants under Medicare, citing mid-year approval of Medicare coverage for pancreas transplants, and noting that this is not enough time to accurately reflect the numbers of procedures since patients normally must accrue longer wait times before they receive organ offers for transplant.

Response: It is true that we did not attempt to project the future volume of combined kidney and pancreas transplant procedures. We reported the number of actual hospital claims in our MedPAR data base, submitted through December 1999, when we published the proposed rule in the May 5, 2000 **Federal Register** (65 FR 26294). DRG categories and payment are always based on actual historical hospital charge data, not projected data. What must also be considered, however, is that dual transplants would only appear in statistics concerning DRG 302, while HCFA also covers pancreas transplants performed in separate operative episodes, subsequent to kidney transplantation. Those pancreatic transplants occurring after kidney transplant would appear in DRG 468, or potentially other DRGs as well, depending on the principal diagnosis.

Comment: Several commenters noted that the 1998 Annual Report of United Network for Organ Sharing (UNOS) indicated there were 966 simultaneous kidney-pancreas transplants, and questioned HCFA's reported 49 cases appearing in DRG 302 as being too low. One commenter, citing the inability of HCFA to be able to identify cases of dual kidney-pancreas transplants, pointed out the need for a specific DRG for this category of patients. Another commenter noted that data were lost because of the incorrect publication of ICD-9-CM code 52.83 (Heterotransplant

of pancreas) as being a covered procedure.

Response: Most patients who are experiencing end-stage renal disease should be eligible for Medicare benefits. We note, however, that none of the commenters submitted specific evidence contrary to our finding that, outside of a single hospital in Maryland, no individual hospital had more than five Medicare dual transplant cases during FY 1999.

Obviously one issue is the timing of the creation of the coverage benefit, which was conferred for cases discharged on or after July 1, 1999. Cases transplanted prior to that date should not have appeared in our data as covered procedures.

We recognize that 52.83 is an incorrect code, and have corrected this typographical error in the Medicare Coverage Issues Manual, as noted above. Interestingly, the original data reported in the proposed notice contained 79 cases of pancreas transplant, but there were only 7 instances in which code 52.83 was reported. We believe that hospital coders recognized the error in the original coverage instruction, and chose to submit the less specific code 52.80 instead.

Comment: Several commenters asserted that it was contradictory for us to argue that 49 cases is too few to establish a DRG but we indicated in the May 5, 2000 proposed rule that there were 40 DRGs with fewer than 10 cases per year.

Response: These low-volume DRGs are not new, but in most cases were created very early during or even prior to the implementation of the prospective payment system. Many of these DRGs are related to patient categories that are rare in the Medicare population, such as age less than 17 or labor and delivery during childbirth. The DRG relative-weights for these DRGs are adjusted based on the overall change in the DRG weights rather than through normal recalibration.

We do not believe our policy not to establish a new dual transplant DRG for combined kidney and pancreas transplants is contradicted by the existence of these low-volume DRGs. As the commenters indicated, the number of combined kidney and pancreas transplants is likely to increase in the next few years, and therefore it is important to ensure an accurate and stable DRG payment is established.

Comment: Several commenters offered to work closely with HCFA to identify cases and costs associated with this category of patients.

Response: We appreciate these offers and the cooperative spirit in which they

were presented. Our ability to evaluate and implement potential DRG changes depends on the availability of validated, representative data. We remain open to using non-MedPAR data if the data are reliable and validated and enable us to appropriately measure relative resource use. We will continue to monitor this category of patients, and will address this issue in the FY 2002 proposed rule.

C. Recalibration of DRG Weights

We proposed to use the same basic methodology for the FY 2001 recalibration as we did for FY 2000 (July 30, 1999 final rule (64 FR 41498)). That is, we recalibrated the weights based on charge data for Medicare discharges. However, we used the most current charge information available, the FY 1999 MedPAR file. (For the FY 2000 recalibration, we used the FY 1998 MedPAR file.) The MedPAR file is based on fully coded diagnostic and procedure data for all Medicare inpatient hospital bills.

The final recalibrated DRG relative weights are constructed from FY 1999 MedPAR data (discharges occurring between October 1, 1998 and September 30, 1999), based on bills received by HCFA through March 2000, from all hospitals subject to the prospective payment system and short-term acute care hospitals in waiver States. The FY 1999 MedPAR file includes data for approximately 11.0 million Medicare discharges.

The methodology used to calculate the DRG relative weights from the FY 1999 MedPAR file is as follows:

- To the extent possible, all the claims were regrouped using the proposed DRG classification revisions discussed in section II.B. of this preamble.
- Charges were standardized to remove the effects of differences in area wage levels, indirect medical education and disproportionate share payments, and, for hospitals in Alaska and Hawaii, the applicable cost-of-living adjustment.
- The average standardized charge per DRG was calculated by summing the standardized charges for all cases in the DRG and dividing that amount by the number of cases classified in the DRG.
- We then eliminated statistical outliers, using the same criteria used in computing the current weights. That is, all cases that are outside of 3.0 standard deviations from the mean of the log distribution of both the charges per case and the charges per day for each DRG are eliminated.

- The average charge for each DRG was then recomputed (excluding the statistical outliers) and divided by the national average standardized charge

per case to determine the relative weight. A transfer case is counted as a fraction of a case based on the ratio of its transfer payment under the per diem payment methodology to the full DRG payment for nontransfer cases. That is, transfer cases paid under the transfer methodology equal to half of what the case would receive as a nontransfer would be counted as 0.5 of a total case.

- We established the relative weight for heart and heart-lung, liver, and lung transplants (DRGs 103, 480, and 495) in a manner consistent with the methodology for all other DRGs except that the transplant cases that were used to establish the weights were limited to those Medicare-approved heart, heart-lung, liver, and lung transplant centers that have cases in the FY 1999 MedPAR file. (Medicare coverage for heart, heart-lung, liver, and lung transplants is limited to those facilities that have received approval from HCFA as transplant centers.)

- Acquisition costs for kidney, heart, heart-lung, liver, lung, and pancreas transplants continue to be paid on a reasonable cost basis. Unlike other excluded costs, the acquisition costs are concentrated in specific DRGs (DRG 302 (Kidney Transplant); DRG 103 (Heart Transplant); DRG 480 (Liver Transplant); DRG 495 (Lung Transplant); and DRG 468 (Pancreas)). Because these costs are paid separately from the prospective payment rate, it is necessary to make an adjustment to prevent the relative weights for these DRGs from including the acquisition costs. Therefore, we subtracted the acquisition charges from the total charges on each transplant bill that showed acquisition charges before computing the average charge for the DRG and before eliminating statistical outliers.

When we recalibrated the DRG weights for previous years, we set a threshold of 10 cases as the minimum number of cases required to compute a reasonable weight. We proposed to use the same case threshold in recalibrating the DRG weights for FY 2001. Using the FY 1999 MedPAR data set, there were 40 DRGs containing fewer than 10 cases. We computed the weights for these 40 low-volume DRGs by adjusting the FY 2000 weights of these DRGs by the percentage change in the average weight of the cases in the other DRGs.

The weights developed according to the methodology described above, using the DRG classification changes, resulted in an average case weight that differs from the average case weight before recalibration. Therefore, the new weights are normalized by an adjustment factor (1.45507) so that the

average case weight after recalibration is equal to the average case weight before recalibration. This adjustment is intended to ensure that recalibration by itself neither increases nor decreases total payments under the prospective payment system.

We received no comments on DRG recalibration.

Section 1886(d)(4)(C)(iii) of the Act requires that, beginning with FY 1991, reclassification and recalibration changes be made in a manner that assures that the aggregate payments are neither greater than nor less than the aggregate payments that would have been made without the changes. Although normalization is intended to achieve this effect, equating the average case weight after recalibration to the average case weight before recalibration does not necessarily achieve budget neutrality with respect to aggregate payments to hospitals because payment to hospitals is affected by factors other than average case weight. Therefore, as we have done in past years and as discussed in section II.A.4.a. of the Addendum to this final rule, we make a budget neutrality adjustment to assure that the requirement of section 1886(d)(4)(C)(iii) of the Act is met.

III. Changes to the Hospital Wage Index

A. Background

Section 1886(d)(3)(E) of the Act requires that, as part of the methodology for determining prospective payments to hospitals, the Secretary must adjust the standardized amounts "for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level." In accordance with the broad discretion conferred under the Act, we currently define hospital labor market areas based on the definitions of Metropolitan Statistical Areas (MSAs), Primary MSAs (PMSAs), and New England County Metropolitan Areas (NECMAs) issued by the Office of Management and Budget (OMB). The OMB also designates Consolidated MSAs (CMSAs). A CMSA is a metropolitan area with a population of one million or more, comprising two or more PMSAs (identified by their separate economic and social character). For purposes of the hospital wage index, we use the PMSAs rather than CMSAs since they allow a more precise breakdown of labor costs. If a metropolitan area is not designated as part of a PMSA, we use the applicable MSA. Rural areas are areas outside a designated MSA, PMSA, or NECA.

For purposes of the wage index, we combine all of the rural counties in a State to calculate a rural wage index for that State.

We note that, effective April 1, 1990, the term Metropolitan Area (MA) replaced the term MSA (which had been used since June 30, 1983) to describe the set of metropolitan areas consisting of MSAs, PMSAs, and CMSAs. The terminology was changed by OMB in the March 30, 1990 **Federal Register** to distinguish between the individual metropolitan areas known as MSAs and the set of all metropolitan areas (MSAs, PMSAs, and CMSAs) (55 FR 12154). For purposes of the prospective payment system, we will continue to refer to these areas as MSAs.

Beginning October 1, 1993, section 1886(d)(3)(E) of the Act requires that we update the wage index annually. Furthermore, this section provides that the Secretary base the update on a survey of wages and wage-related costs of short-term, acute care hospitals. The survey should measure, to the extent feasible, the earnings and paid hours of employment by occupational category, and must exclude the wages and wage-related costs incurred in furnishing skilled nursing services. As discussed below in section III.F of this preamble, we also take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act when calculating the wage index.

B. FY 2001 Wage Index Update

The FY 2001 wage index values in section VI of the Addendum to this final rule (effective for hospital discharges occurring on or after October 1, 2000 and before October 1, 2001) are based on the data collected from the Medicare cost reports submitted by hospitals for cost reporting periods beginning in FY 1997 (the FY 2000 wage index was based on FY 1996 wage data).

The FY 2001 wage index includes the following categories of data associated with costs paid under the hospital inpatient prospective payment system (as well as outpatient costs), which were also included in the FY 2000 wage index:

- Salaries and hours from short-term, acute care hospitals.
- Home office costs and hours.
- Certain contract labor costs and hours.
- Wage-related costs.

Consistent with the wage index methodology for FY 2000, the wage index for FY 2001 also continues to exclude the direct and overhead salaries and hours for services not paid through

the inpatient prospective payment system such as skilled nursing facility services, home health services, or other subprovider components that are not subject to the prospective payment system.

We calculate a separate Puerto Rico-specific wage index and apply it to the Puerto Rico standardized amount. (See 62 FR 45984 and 46041.) This wage index is based solely on Puerto Rico's data. Finally, section 4410 of Public Law 105-33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is not located in a rural area may not be less than the area wage index applicable to hospitals located in rural areas in that State.

Comment: One commenter believed that the FY 2001 wage calculation does not allow for inflationary effects or existing contractual increases, and recommended that we consider using a more recent Medicare cost reporting year and allow for inflationary wage adjustments.

Response: Due to the time period allowed for: (1) hospitals to complete and submit their cost reports to their intermediaries, (2) intermediaries to review and submit the cost reports to HCFA, (3) intermediaries to perform a separate, detailed review of all wage data and submit the results to HCFA, and (4) HCFA to compile a complete set of all hospitals' wage data from a given Federal fiscal year, we do not have available more recent reliable data to calculate the wage index. As described in the proposed rule (65 FR 26299) and section III.E. of this final rule, we adjust the wage data to a common period that reflects the latest cost reporting period for the filing year. Because the wage index is a relative measure, comparing area average hourly wages to a national average hourly wage, we believe the wage index is minimally impacted by inflationary effects beyond those accounted for by adjusting the data to a common period.

C. FY 2001 Wage Index

Because the hospital wage index is used to adjust payments to hospitals under the prospective payment system, it should, to the extent possible, reflect the wage costs associated with the areas of the hospital included under the hospital inpatient prospective payment system. In response to concerns within the hospital community related to the removal from the wage index calculation costs related to GME (teaching physicians and residents) and certified registered nurse anesthetists (CRNAs), which are paid by Medicare separately from the prospective

payment system, in 1998 the AHA convened a workgroup to develop a consensus recommendation on this issue. The workgroup recommended that costs related to GME and CRNAs be phased out of the wage index calculation over a 5-year period. Based upon our analysis of hospitals' FY 1996 wage data, and consistent with the AHA workgroup's recommendation, we specified in the July 30, 1999 final rule (64 FR 41505) that we would phase-out these costs from the calculation of the wage index over a 5-year period, beginning in FY 2000. In keeping with the decision to phase-out costs related to GME and CRNAs, the final FY 2001 wage index is based on a blend of 60 percent of an average hourly wage including these costs, and 40 percent of an average hourly wage excluding these costs.

Comment: We received one comment in support of our continued transition of removing GME and CRNA costs from the wage index calculation. We also received a comment from a national association representing nurse anesthetists expressing concern that, as a result of disparities in cost reporting systems and vague fiscal intermediary instructions, CRNA costs that should be paid under Part B might still be reported in hospitals' FY 1997 cost reports. The commenter also stated that removing CRNA costs from the wage index eliminates a payment mechanism for the indirect patient care activities performed by CRNAs, resulting in a disincentive for hospitals to employ CRNAs. To avoid any disruption in the "continuous operations of hospitals," the commenter recommended that, prior to implementing any changes to the wage index calculation, HCFA should refine the Part A cost data collection and cost reporting process and instruct the fiscal intermediaries to provide all hospitals with "explicit instructions as to the appropriate reporting of CRNA costs." The commenter believed this refinement to the cost data will identify and exclude only the CRNA salary costs related to the rural hospital cost pass-through provisions and allow Part A reimbursement for indirect patient care which are not reimbursed under Medicare Part B. In keeping with the general policy to exclude costs that are not paid through the Medicare prospective payment system, the commenter also recommended that HCFA exclude salaries reported under Medicare Part A for anesthesia assistants.

Response: We note that the FY 2001 wage index is the second year of the transition to eliminating Part A CRNA costs from the wage index. As

evidenced in the impact analysis in the May 5, 2000 proposed rule (65 FR 26415), eliminating these CRNA and GME costs has an insignificant impact, with no category of hospitals impacted by more than 0.1 percent. Therefore, we do not believe it is necessary to delay further removal of CRNA costs.

Payment for CRNA services is made under a fee schedule under Medicare Part B (Supplementary medical insurance), with the sole exception of payments to hospitals under the rural pass-through provision. Although a hospital contracting for CRNA services would include the costs on its cost report, the fiscal intermediary forwards the information to the carrier for payment under the fee schedule. As the commenter noted, this payment structure has been in place since January 1, 1989. We believe that intermediaries and carriers are generally well informed and experienced in the handling of these costs. However, we will consider whether further clarification of our instructions is necessary.

The commenter also stated that Medicare does not specifically exclude anesthesia assistants, who are also reimbursed under Part B, from the wage index. The cost report instructions for Worksheet A, Line 20, refer to nonphysician anesthetists, which include both CRNAs and anesthesia assistants. We will consider whether our Worksheet S-3 instructions need to be revised to explicitly instruct hospitals to remove the Part B costs associated with anesthesia assistants as well.

1. Teaching Physician Costs and Hours Survey

As discussed in the July 30, 1999 final rule, because the FY 1996 cost reporting data did not separate teaching physician costs from other physician Part A costs, we instructed our fiscal intermediaries to survey teaching hospitals to collect data on teaching physician costs and hours payable under the per resident amounts (\$ 413.86) and reported on Worksheet A, Line 23 of the hospitals' cost report.

The FY 1997 cost reports also do not separately report teaching physician costs. Therefore, we once again conducted a special survey to collect data on these costs. (For the FY 1998 cost reports, we have revised the Worksheet S-3, Part II so that hospitals can separately report teaching physician Part A costs. Therefore, after this year, it will no longer be necessary for us to conduct this special survey.)

The survey data collected as of mid-January 2000 were included in the preliminary public use data file made

available on the Internet in February 2000 at HCFA's home page (<http://www.hcfa.gov>). At that time, we had received teaching physician data for 459 out of 770 teaching hospitals reporting physician Part A costs on their Worksheet S-3, Part II. Also, in some cases, fiscal intermediaries reported that teaching hospitals did not incur teaching physician costs. In early January 2000, we instructed fiscal intermediaries to review the survey data for consistency with the Supplemental Worksheet A-8-2 of the hospitals' cost reports. Supplemental Worksheet A-8-2 is used to apply the reasonable compensation equivalency limits to the costs of provider-based physicians, itemizing these costs by the corresponding line number on Worksheet A.

When we notified the hospitals, through our fiscal intermediaries, that they could review the survey data on the Internet, we also notified hospitals that requests for changes to the teaching survey data had to be submitted by March 6, 2000. We instructed fiscal intermediaries to review the requests for changes received from hospitals and submit necessary data revisions to HCFA by April 3, 2000. We removed from the wage data the physician Part A teaching costs and hours reported on the survey form for every hospital that completed the survey. These data had been verified by the fiscal intermediary before submission to HCFA.

For the FY 2000 wage index, the AHA workgroup recommended that, if reliable teaching physician data were not available for removing teaching costs from hospitals' total physician Part A costs, HCFA should remove 80 percent of the costs and hours reported by hospitals attributable to physicians' Part A services. In calculating the FY 2000 wage index, if we did not receive survey data for a teaching hospital, we removed 80 percent of the hospital's reported total physician Part A costs and hours from the calculation. In the May 5, 2000 proposed rule, for the FY 2001 wage index, we proposed a different approach. In some instances, fiscal intermediaries had verified that teaching hospitals do not have teaching physician costs; for these hospitals, it is not necessary to adjust the hospitals' physician Part A costs. We conferred with the fiscal intermediaries to distinguish teaching hospitals that did not have teaching physician costs from teaching hospitals that had not identified the portion of their physician Part A costs associated with teaching physicians (that is, hospitals that did not complete the teaching survey).

In calculating the final FY 2001 wage index, we removed 100 percent of the physician Part A costs and hours (reported on Worksheet S-3, Lines 4, 10, 12, and 18) in the FY 2001 wage index calculation for those hospitals where the fiscal intermediary verifies that the hospital has otherwise unidentified teaching physician costs included in physician Part A costs and hours. For those teaching hospitals whose fiscal intermediaries identified as having costs attributable to teaching physicians but reported no physician Part A costs on the Worksheet S-3, we removed 100 percent of Worksheet A, Line 23, Column 1. To determine the hours to be removed, the costs reported on Line 23 of the Worksheet A, Column 1 are divided by the national average hourly wage for teaching physicians of \$59.17 based upon the survey.

We note that Line 23 of Worksheet A, Column 1, flows directly into hospitals' total salaries on Worksheet S-3, Part II. Line 23 contains GME costs not directly attributable to residents' salaries or fringe benefits. Therefore, these costs tend to be costs associated with teaching physicians. To the extent a hospital fails to separately identify the proportion of its Line 23, Worksheet A costs associated with teaching physicians, we believe it is reasonable to remove all of these costs under the presumption that they are all associated with teaching physicians.

Thus, as we proposed in the May 5 proposed rule, for the FY 2001 wage index, we are either using the data submitted on the teaching physician survey (837 hospitals), or, in the absence of such data, removing 100 percent of physician Part A costs reported on Worksheet S-3 (287 hospitals), or removing the amount reported on Line 23 of Worksheet A, Column 1 (18 hospitals).

We received one comment in support of removing 100 percent of physician Part A costs and hours from teaching hospitals where the fiscal intermediary verifies that the hospital has otherwise unidentifiable teaching costs included in physician Part A costs and hours.

2. Nurse Practitioner and Clinical Nurse Specialist Costs

The current wage index includes salaries and wage-related costs for nurse practitioners (NPs) and clinical nurse specialists (CNSs) who, similar to physician assistants and CRNAs (unless at hospitals under the rural pass-through exception for CRNAs), are paid under the physician fee schedule. Over the past year, we have received several inquiries from hospitals and fiscal intermediaries regarding NP costs and

how they should be handled for purposes of the hospital wage index. Because Medicare generally pays for NP and CNS costs under Part B outside the hospital prospective payment system, removing NP and CNS Part B costs from the wage index calculation would be consistent with our general policy to exclude, to the extent possible, costs that are not paid through the hospital prospective payment system. Because NP and CNS costs are not separately reported on the Worksheet S-3 for FYs 1997, 1998, and 1999, the FY 2000 Worksheet S-3 and cost reporting instructions will be revised to allow for separate reporting of NP and CNS Part A and Part B costs. We plan to exclude the Part B costs beginning with the FY 2004 wage index. These services are pervasive in both rural and urban settings. As such, because the wage index is a relative measure, we believe there will be no significant overall impact resulting from the removal of Part B costs for NPs and CNSs.

We did not receive any public comments on our plan to exclude NP and CNS Part B costs from the wage index calculation, beginning with the FY 2004 wage index.

3. Severance and Bonus Pay Costs

On October 6, 1999, we issued a memorandum to hospitals and fiscal intermediaries regarding our policy on treatment of severance and bonus pay costs in developing the wage index, effective beginning with the FY 2001 wage index. (The hospital cost report instructions also will be amended to reflect our policy on these costs.) We stated that severance pay costs may be included on Worksheet S-3 as salaries on Part II, Line 1, only if the associated hours are included. If the hospital has no accounting of the hours, or if the costs are not based on hours, the severance pay costs may not be included in the wage index. On the other hand, bonus pay costs may be included in the cost report on Line 1 of Worksheet S-3 with no corresponding hours. Due to the inquiries we continue to receive from hospitals regarding the inclusion of severance pay costs on cost reports, in the May 5 proposed rule, we clarified our policy in this area.

Hospitals vary in their accounting of severance pay costs. Some hospitals base the amounts to be paid on hours, for example, 80 hours worth of pay. Others do not; for example, a 15-year employee may be offered a \$25,000 buyout package. Some hospitals record associated hours; others do not. The Wage Index Workgroup has suggested that we not include any severance pay costs in the wage index calculation, that

these costs are for terminated employees, and, therefore, they should be considered an administrative rather than a salary expense.

Severance pay costs can be substantial amounts, particularly in periods of downsizing. In the proposed rule, we state our view that, if severance pay costs are included with no associated hours, the wage index, which is a relative measure of wage costs across labor market areas, would be distorted.

We included severance pay costs in the proposed FY 2001 wage index as a salary cost to the extent that associated hours also were reported. However, we solicited public comments on this issue. We received two comments on this issue.

Comment: Two national hospital associations disagree with our policy clarification that severance pay costs may be included on Worksheet S-3, Part II, Line 1 as salaries only if associated hours are included. These commenters argued that HCFA's wage index policy is that wages and benefits are to be determined in accordance with generally accepted accounting principles (GAAP) rather than Medicare cost reimbursement principles and that under GAAP severance pay is classified as salaries and wages. They also argued that, unless a terminated employee continues to work or is still considered to be employed by the provider after the last regular pay period that additional hours should not be reported for severance pay. Further, for employees receiving severance pay, "there are no hours to report" because "their job has been eliminated and they are no longer employed by the provider."

Response: As indicated in the proposed rule, we exclude severance pay costs from the wage index calculation if there are no associated hours because we believe that inclusion of such costs might lead to a distortion of the wage index. The wage index is a relative measure of average hourly wages across geographic areas, and we believe that severance pay costs (which might be significant) without associated hours might inappropriately inflate the average hourly wage for a given hospital or area for a given time period (which in turn would distort the relative measure of wages across areas). For example, if we included severance pay costs with no associated hours, then a hospital might be more likely to qualify for geographic reclassification for purposes of the wage index simply because it incurred significant severance pay costs in a given year. In light of the comments, we will continue to examine this issue to determine whether inclusion of severance pay costs with no

associated hours would lead to a better measure of relative wages as opposed to a distortion in the measure and to determine whether it is feasible and appropriate to revise our policy on severance pay costs in the future.

4. Health Insurance and Health-Related Costs

In the September 1, 1994 final rule (59 FR 45356), we stated that health insurance, purchased or self-insurance, is a core wage-related cost. Over the past year, we have received several inquiries from hospitals and hospital associations requesting that we define "purchased health insurance costs." In response, in the May 5 proposed rule, we clarified that, for wage index purposes, we define "purchased health insurance costs" as the premiums and administrative costs a hospital pays on behalf of its employees for health insurance coverage. "Self-insurance" includes the hospital's costs (not charges) for covered services delivered to its employees, less any amounts paid by the employees, and less the personnel costs for hospital staff who delivered the services (these costs are already included in the wage index). For purchased health insurance and self-health insurance, the included costs must be for services covered in a health insurance plan.

Also, in the September 1, 1994 final rule (59 FR 45357), we addressed a comment about the inclusion of health-related costs in the calculation of the wage index. Such health-related costs include employee physical examinations, flu shots, and clinic visits, and other services that are not covered by employees' health insurance plans but are provided at no cost or at discounted rates to employees of the hospital. In the May 5 proposed rule, we proposed to clarify that the costs for these services may be included as an "other" wage-related cost if (among other criteria), when all such health-related costs are combined, the total of such costs is greater than one percent of the hospital's total salaries (less excluded area salaries). As discussed in the September 1, 1994 final rule, a cost may be allowable as an "other wage-related cost" if it meets certain criteria. Under one criterion, the wage-related cost must be greater than one percent of total salaries (less excluded area salaries). For purposes of applying this 1-percent test with respect to the health-related costs at issue here, we look at the combined total of the health-related costs (not charges) for services delivered to its employees, less any amounts employees paid, and less the personnel costs for hospital staff who delivered the

services (as these costs are already included in the wage index).

Comment: We received several comments regarding our policy and definitions for health insurance and health-related costs. Some commenters interpreted the policy clarification in the proposed rule as stating that self-insurance will no longer be included as core wage-related costs. They believe that not including these costs is inconsistent with the fundamental concept of core wage-related costs. One commenter pointed to the 1994 HCFA/Industry workgroup which established the list of core wage-related costs still in use, and contended that "(t)hese proposed changes are inconsistent with the agreements reached in those original workgroup meetings."

Response: As noted in the May 5 proposed rule, we previously stated our policy regarding health insurance and health-related costs in the FY 1995 final rule. We emphasize again in this final rule that, health insurance costs, whether purchased or self-insured, is, and will continue to be, a core wage-related cost. We did not propose a change in this policy, nor are we implementing a change in this policy in this final rule.

Comment: Some commenters objected to our statement in the proposed rule that only health self-insurance costs (not charges, and exclusive of any amounts paid by covered employees and less the personnel costs for hospital staff who delivered the services) are allowable core wage-related costs, and also argued that health self-insurance costs should be determined in accordance with GAAP which would include charges and personnel costs. They suggested that excluding costs that are determined in accordance with GAAP would create major inconsistencies among hospitals and inevitably result in major swings in the wage index for individual MSAs.

Two commenters recommended that HCFA review this policy to avoid creating disincentives to hospitals that develop cost-effective health-insurance benefits; they asserted that there should be no differentiation between purchased health insurance and self-funded health insurance.

Response: We disagree with the commenters that we are unfairly and inconsistently treating hospitals that self-insure by not allowing as a wage-related cost the salary costs for employees who deliver the health services. The personnel costs of delivering health care to all of a hospital's patients are already included in the wage index through line 1 of Worksheet S-3, Part II. Accounting for these hospital personnel costs on lines

13 or 14 for wage-related costs would falsely overstate a hospital's average hourly wage. Unless a hospital actually incurs the personnel costs twice, it is inappropriate to include the costs twice. Our policy does not require the exclusion of staff personnel costs from the premium costs for hospitals that purchase health insurance. As defined above and in the proposed rule, purchased health insurance costs include the premiums and administrative costs a hospital pays on behalf of its employees for health insurance coverage. The commenters suggested that the premium costs may include a hospital's staff personnel costs. We believe it is appropriate to allow the entire premium cost to a hospital as a wage-related cost if the intermediary verifies that the amount is an actual cost to the hospital.

Nevertheless, we agree with the commenters that, overall, for "wage-related costs", the application of GAAP creates a more static wage index and a better measure of relative wages across areas. For the FY 2002 wage index, we will advise hospitals to apply GAAP for wage-related costs, including health insurance and health-related costs. However, for self-health insurance and health-related costs, personnel costs associated with hospital staff that deliver the services to the employees must continue to be excluded from wage-related costs, if the costs are already included in the wage data as salaries on Worksheet S-3, Part II, Line I.

Comment: One commenter recommended that the insurance plan requirements be eliminated from our definition of health insurance costs, stating that hospitals should be required to maintain adequate records in support of the services they provide to their employees at either no cost or below cost. In expressing the concern that employee health benefits are ever-changing, the commenter recommended that not only must HCFA's definition of insurance plans be specific but it should also be implemented prospectively with sufficient clarification to reduce inconsistency in interpretation by the fiscal intermediaries.

Response: We are concerned that adopting this recommendation would make it difficult for intermediaries to accurately track benefits provided to a hospital's employees, leading to greater disparity in the treatment of these costs across hospitals. We will give further consideration to the implications of this recommendation, however.

Comment: One commenter recommended that health-related costs, for such items as "employee physicals,

flu shots, and clinic visits" should be included as a core wage-related cost; therefore, the 1-percent threshold criteria for health related costs should be eliminated.

Response: In the September 1, 1994 final rule, when we published the list of core wage-related costs agreed upon by the workgroup, we responded to comments specifically suggesting that health-related services (as opposed to self-insured health services, which was clearly on the original core list) be added to the core list. In our response, we pointed out that the core list was developed in conjunction with the hospital industry, to establish a list of commonly recognized costs that contribute significantly to the wage costs of a hospital and are readily identifiable in the hospital's records. Health-related benefits was not included on the core list at that time. We continue to believe these health-related benefits do not fit the criteria established by the workgroup for identifying core wage-related costs.

5. Elimination of Wage Costs Associated With Rural Health Clinics and Federally Qualified Health Centers

The current hospital wage index includes the salaries and wage-related costs of hospital-based rural health clinics (RHCs) and federally qualified health centers (FQHCs). However, Medicare pays for these costs outside the hospital inpatient prospective payment system. Effective January 1, 1998, under section 1833(f) of the Act, as amended by section 4205 of Public Law 105-33, Medicare pays both hospital-based and freestanding RHCs and FQHCs on a cost-per-visit basis. Medicare cost reporting forms for RHCs and FQHCs were revised to reflect this legislative change, beginning with cost reporting periods ending on or after September 30, 1998 (the FY 1998 cost report). Other cost-reimbursed outpatient departments, such as ambulatory surgical centers, community mental health centers, and comprehensive outpatient rehabilitation facilities, are presently excluded from the wage index. Therefore, consistent with our wage index refinements that exclude, to the extent possible, costs associated with services not paid under the hospital inpatient prospective payment system, we believe it would be appropriate to exclude all salary costs associated with RHCs and FQHCs from the wage index calculation if we had feasible, reliable data for such exclusion.

Because RHC and FQHC costs are not separately reported on the Worksheet S-3 for FYs 1997, 1998, and 1999, we

cannot exclude these costs from the FY 2001, FY 2002, or FY 2003 wage indexes. Therefore, we will revise the FY 2000 Worksheet S-3 to begin providing for the separate reporting of RHC and FQHC salaries, wage-related costs, and hours. We will evaluate the wage data for RHCs and FQHCs in developing the FY 2004 wage index.

We received no public comments on this issue.

D. Verification of Wage Data From the Medicare Cost Report

The data for the FY 2001 wage index were obtained from Worksheet S-3, Parts II and III of the FY 1997 Medicare cost reports. The data file used to construct the wage index includes FY 1997 data submitted to HCFA as of mid-July 2000. As in past years, we performed an intensive review of the wage data, mostly through the use of edits designed to identify aberrant data.

We asked our fiscal intermediaries to revise or verify data elements that resulted in specific edit failures. The unresolved data elements that were included in the calculation of the proposed FY 2001 wage index have been resolved and are reflected in calculation of the final FY 2001 wage index. We note that, as part of this process to identify aberrant data and correct any errors prior to the calculation of the final FY 2001 wage index, we notified by letter those hospitals that were leading to large variations in the wage indexes of their labor market areas compared to the FY 2000 wage index. These hospitals were instructed to review their data to identify the reason for the large increases or decreases and notify their fiscal intermediary of any necessary corrections. This resulted in several revisions to the data.

Also, as part of our editing process, in the final wage index, we removed data for 15 hospitals that failed edits. For eight of these hospitals, we were unable to obtain sufficient documentation to verify or revise the data because the hospitals are no longer participating in the Medicare program or are in bankruptcy status. Two hospitals had erroneous average hourly wages (negative and zero) after allocating overhead to their excluded areas and, therefore, were removed from the calculation. The data from the remaining five hospitals also failed the edits and were removed. As a result, the final FY 2001 wage index is calculated based on FY 1997 wage data for 4,950 hospitals.

E. Computation of the FY 2001 Wage Index

The method used to compute the FY 2001 wage index follows. We note one technical change to the formula used to calculate the proposed wage index. For the first time, in the proposed rule we subtracted line 13 of Worksheet S-3, Part III from total hours when determining the excluded hours ratio used to estimate the amount of overhead attributed to excluded areas. Although we continue to believe this is the correct formula for determining this ratio, it resulted in very large and inappropriate increases in the average hourly wages for some hospitals. Therefore, in calculating the final FY 2001 wage index, we are not subtracting line 13 of Worksheet S-3, Part III in the calculation.

Step 1—As noted above, we based the FY 2001 wage index on wage data reported on the FY 1997 Medicare cost reports. We gathered data from each of the non-Federal, short-term, acute care hospitals for which data were reported on the Worksheet S-3, Parts II and III of the Medicare cost report for the hospital's cost reporting period beginning on or after October 1, 1996 and before October 1, 1997. In addition, we included data from a few hospitals that had cost reporting periods beginning in September 1996 and reported a cost reporting period exceeding 52 weeks. These data were included because they did not have a cost report begin during the period described above. However, we generally describe these wage data as FY 1997 data. We note that, if a hospital had more than one cost reporting period beginning during FY 1997 (for example, a hospital had two short cost reporting periods beginning on or after October 1, 1996 and before October 1, 1997), we included wage data from only one of the cost reporting periods, the longest, in the wage index calculation. If there was more than one cost reporting period and the periods were equal in length, we included the wage data from the latest period in the wage index calculation.

Step 2—Salaries—The method used to compute a hospital's average hourly wage is a blend of 60 percent of the hospital's average hourly wage including all GME and CRNA costs, and 40 percent of the hospital's average hourly wage after eliminating all GME and CRNA costs.

In calculating a hospital's average salaries plus wage-related costs, including all GME and CRNA costs, we subtracted from Line 1 (total salaries) the Part B salaries reported on Lines 3 and 5, home office salaries reported on

Line 7, and excluded salaries reported on Lines 8 and 8.01 (that is, direct salaries attributable to skilled nursing facility services, home health services, and other subprovider components not subject to the prospective payment system). We also subtracted from Line 1 the salaries for which no hours were reported on Lines 2, 4, and 6. To determine total salaries plus wage-related costs, we added to the net hospital salaries the costs of contract labor for direct patient care, certain top management, and physician Part A services (Lines 9 and 10), home office salaries and wage-related costs reported by the hospital on Lines 11 and 12, and nonexcluded area wage-related costs (Lines 13, 14, 16, 18, and 20).

We note that contract labor and home office salaries for which no corresponding hours are reported were not included. In addition, wage-related costs for specific categories of employees (Lines 16, 18, and 20) are excluded if no corresponding salaries are reported for those employees (Lines 2, 4, and 6, respectively).

We then calculated a hospital's salaries plus wage-related costs by subtracting from total salaries the salaries plus wage-related costs for teaching physicians, Part A CRNAs (Lines 2 and 16), and residents (Lines 6 and 20).

Step 3—Hours—With the exception of wage-related costs, for which there are no associated hours, we computed total hours using the same methods as described for salaries in Step 2.

Step 4—For each hospital reporting both total overhead salaries and total overhead hours greater than zero, we then allocated overhead costs. First, we determined the ratio of excluded area hours (sum of Lines 8 and 8.01 of Worksheet S-3, Part II) to revised total hours (Line 1 minus the sum of Part II, Lines 3, 5, and 7). We then computed the amounts of overhead salaries and hours to be allocated to excluded areas by multiplying the above ratio by the total overhead salaries and hours reported on Line 13 of Worksheet S-3, Part III. Finally, we subtracted the computed overhead salaries and hours associated with excluded areas from the total salaries and hours derived in Steps 2 and 3.

Step 5—For each hospital, we adjusted the total salaries plus wage-related costs to a common period to determine total adjusted salaries plus wage-related costs. To make the wage adjustment, we estimated the percentage change in the employment cost index (ECI) for compensation for each 30-day increment from October 14, 1996 through April 15, 1998 for private

industry hospital workers from the Bureau of Labor Statistics' *Compensation and Working Conditions*. We use the ECI because it reflects the price increase associated with total compensation (salaries plus fringes) rather than just the increase in salaries. In addition, the ECI includes managers as well as other hospital workers. This methodology to compute the monthly update factors uses actual quarterly ECI data and assures that the update factors match the actual quarterly and annual percent changes. The factors used to adjust the hospital's data were based on the midpoint of the cost reporting period, as indicated below.

MIDPOINT OF COST REPORTING PERIOD

After	Before	Adjustment factor
10/14/96	11/15/96	1.02848
11/14/96	12/15/96	1.02748
12/14/96	01/15/97	1.02641
01/14/97	02/15/97	1.02521
02/14/97	03/15/97	1.02387
03/14/97	04/15/97	1.02236
04/14/97	05/15/97	1.02068
05/14/97	06/15/97	1.01883
06/14/97	07/15/97	1.01695
07/14/97	08/15/97	1.01520
08/14/97	09/15/97	1.01357
09/14/97	10/15/97	1.01182
10/14/97	11/15/97	1.00966
11/14/97	12/15/97	1.00712
12/14/97	01/15/98	1.00451
01/14/98	02/15/98	1.00213
02/14/98	03/15/98	1.00000
03/14/98	04/15/98	0.99798

For example, the midpoint of a cost reporting period beginning January 1, 1997 and ending December 31, 1997 is June 30, 1997. An adjustment factor of 1.01695 would be applied to the wages of a hospital with such a cost reporting period. In addition, for the data for any cost reporting period that began in FY 1997 and covers a period of less than 360 days or more than 370 days, we annualized the data to reflect a 1-year cost report. Annualization is accomplished by dividing the data by the number of days in the cost report and then multiplying the results by 365.

Step 6—Each hospital was assigned to its appropriate urban or rural labor market area before any reclassifications under section 1886(d)(8)(B) or section 1886(d)(10) of the Act. Within each urban or rural labor market area, we added the total adjusted salaries plus wage-related costs obtained in Step 5 (with and without GME and CRNA costs) for all hospitals in that area to determine the total adjusted salaries plus wage-related costs for the labor market area.

Step 7—We divided the total adjusted salaries plus wage-related costs obtained under both methods in Step 6 by the sum of the corresponding total hours (from Step 4) for all hospitals in each labor market area to determine an average hourly wage for the area.

Because the FY 2001 wage index is based on a blend of average hourly wages, we then added 60 percent of the average hourly wage calculated without removing GME and CRNA costs, and 40 percent of the average hourly wage calculated with these costs excluded.

Step 8—We added the total adjusted salaries plus wage-related costs obtained in Step 5 for all hospitals in the nation and then divided the sum by the national sum of total hours from Step 4 to arrive at a national average hourly wage (using the same blending methodology described in Step 7). Using the data as described above, the national average hourly wage is \$21.7702.

Step 9—For each urban or rural labor market area, we calculated the hospital wage index value by dividing the area average hourly wage obtained in Step 7 by the national average hourly wage computed in Step 8.

Step 10—Following the process set forth above, we developed a separate Puerto Rico-specific wage index for purposes of adjusting the Puerto Rico standardized amounts. (The national Puerto Rico standardized amount is adjusted by a wage index calculated for all Puerto Rico labor market areas based on the national average hourly wage as described above.) We added the total adjusted salaries plus wage-related costs (as calculated in Step 5) for all hospitals in Puerto Rico and divided the sum by the total hours for Puerto Rico (as calculated in Step 4) to arrive at an overall average hourly wage of \$10.1902 for Puerto Rico.

For each labor market area in Puerto Rico, we calculated the Puerto Rico-specific wage index value by dividing the area average hourly wage (as calculated in Step 7) by the overall Puerto Rico average hourly wage.

Step 11—Section 4410 of Public Law 105-33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is located in an urban area may not be less than the area wage index applicable to hospitals located in rural areas in that State. Furthermore, this wage index floor is to be implemented in such a manner as to assure that aggregate prospective payment system payments are not greater or less than those that would have been made in the year if this section did not apply. For FY 2001, this change affects 193 hospitals in 34 MSAs. The MSAs affected by this

provision are identified in Table 4A by a footnote.

F. Revisions to the Wage Index Based on Hospital Redesignation

Under section 1886(d)(8)(B) of the Act, hospitals in certain rural counties adjacent to one or more MSAs are considered to be located in one of the adjacent MSAs if certain standards are met. Under section 1886(d)(10) of the Act, the Medicare Geographic Classification Review Board (MGCRB) considers applications by hospitals for geographic reclassification for purposes of payment under the prospective payment system. Applications for MGCRB reclassification are now on the internet at <http://www.hcfa.gov/regs/appeals>.

1. Provisions of Public Law 106–113

Under section 152(b) of Public Law 106–113, hospitals in certain counties are deemed to be located in specified areas for purposes of payment under the hospital inpatient prospective payment system, for discharges occurring on or after October 1, 2000. For payment purposes, these hospitals are to be treated as though they were reclassified for purposes of both the standardized amount and the wage index. In the May 5 proposed rule we calculated FY 2001 wage indexes for hospitals in the affected counties as if they were reclassified to the specified area.

For purposes of making payments under section 1886(d) of the Act for FY 2001, section 152(b) provides the following:

- Iredell County, North Carolina is deemed to be located in the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina MSA;
- Orange County, New York is deemed to be located in the New York, New York MSA;
- Lake County, Indiana and Lee County, Illinois are deemed to be located in the Chicago, Illinois MSA;
- Hamilton-Middletown, Ohio is deemed to be located in the Cincinnati, Ohio-Kentucky-Indiana MSA;
- Brazoria County, Texas is deemed to be located in the Houston, Texas MSA;
- Chittenden County, Vermont is deemed to be located in the Boston-Worcester-Lawrence-Lowell-Brockton, Massachusetts-New Hampshire MSA.

Section 152(b) also requires that these reclassifications be treated for FY 2001 as though they are reclassification decisions by the MGCRB. Therefore, in the May 5 proposed rule, we proposed that the wage indexes for the areas to which these hospitals are reclassifying,

as well as the wage indexes for the areas in which they are located, would be subject to all of the normal rules for calculating wage indexes for hospitals affected by reclassification decisions by the MGCRB, as described below.

In addition, we proposed that the reclassifications enacted by section 152(b) pertain only to the hospitals located in the specified counties, not to hospitals in other counties within the MSA or hospitals reclassified into the MSA by the MGCRB.

Under section 154(b) of Public Law 106–113, the Allentown-Bethlehem-Easton, Pennsylvania MSA wage index was calculated including the wage data for Lehigh Valley Hospital. Section 154(b) states that, for FY 2001, “[n]otwithstanding any other provision of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), in calculating and applying the wage indices under that section for discharges occurring during fiscal year 2001, Lehigh Valley Hospital shall be treated as being classified in the Allentown-Bethlehem-Easton Metropolitan Statistical Area.” We stated in the proposed rule that this statutory language directs us to include Lehigh Valley Hospital’s wage data in the wage index calculation for the Allentown-Bethlehem-Easton MSA for FY 2000 and FY 2001.

Section 1886(d)(8)(B) of the Act established that a hospital located in a rural county adjacent to one or more urban areas is treated as being located in the MSA to which the greatest number of workers in the county commute, if the rural county would otherwise be considered part of an MSA (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 counties of all contiguous MSAs. Through FY 2000, hospitals are required to use standards published in the Federal Register on January 3, 1980, by the Office of Management and Budget. For FY 2000, there were 27 hospitals affected by this provision.

Section 402 of Public Law 106–113 amended section 1886(d)(8)(B) of the Act to allow hospitals to elect to use the standards published in the **Federal Register** on January 3, 1980 (1980 decennial census data) or March 30, 1990 (1990 decennial census data) during FY 2001 and FY 2002. As of FY 2003, hospitals will be required to use the standards published in the **Federal Register** by the Director of the Office of Management and Budget based on the

most recent available decennial population data.

We are in the process of working with the Office of Management and Budget to identify the hospitals that would be affected by this amendment. We will revise payments to hospitals in the affected counties as soon as data is available. Hospitals will have this option during FY 2001 and FY 2002. After FY 2002, hospitals will be required to use data based on the 2000 decennial census. We refer the reader to the September 30, 1988 final rule (53 FR 38499) for a complete discussion of our approach to identify the outlying counties using the standards published in the January 3, 1980 **Federal Register**.

Comment: We received three comments on our proposed policy to treat hospitals reclassifying into an area containing one of the counties reclassified by section 152(b) in a manner similar to any other situation where a hospital reclassifies into an area where hospitals in that area have been reclassified into another area. The commenters, all hospitals that have been granted a reclassification into an area containing a county reclassified by section 152(b), requested that they should be permitted to reclassify along with the county identified by section 152(b). They added that, in the event it was determined that their preferred solution was not permissible, the wage index of the area to which they were reclassified should be calculated by including the wage data for the hospitals reclassified by section 152(b).

The commenters noted that they would be at a competitive disadvantage by the section 152(b) reclassifications if they were treated similar to other decisions by the MGCRB. In addition, they believed that the Secretary has some discretion with respect to calculating the wage indexes for areas with hospitals that have been reclassified, noting that the legislation does not specifically direct the Secretary to exclude reclassified hospitals from the calculation for the area in which a hospital is actually located.

Response: We have reconsidered the methodology for calculating the wage index applicable to hospitals reclassified into the MSAs that contain the counties specified in section 152(b) of Public Law 106–113. We continue to believe that the hospitals located in the counties specified in section 152(b) should be distinguished from the hospitals that were reclassified by the MGCRB into the MSAs containing those counties. Congress provided special treatment for hospitals in the counties specified in the statute, but it did not provide special treatment for hospitals

reclassified to the MSAs that contain those counties. Moreover, under the MGCRB process, hospitals are reclassified into MSAs as a whole, not into specific counties within an MSA; for example, some hospitals were reclassified by the MGCRB into the Newburgh, NY-PA MSA, which contains Orange County, NY and one other county, but those hospitals were not reclassified into Orange County itself. Thus, the benefits of section 152(b) apply only to the hospitals located in the counties specified by Congress.

Consistent with one of the suggestions of the commenters, however, we are revising the methodology reflected in the proposed rule with respect to the calculation of the wage index values for the MSAs containing the counties specified in section 152(b). The proposed rule reflected our normally applicable policy with respect to reclassifications, under which the wages of hospitals reclassified out of an MSA would be excluded from the calculation of the wage index value for that MSA; application of our normal rules might lead to an unexpected decrease in the wage index value for an MSA arising from the provisions of section 152(b). To address the unexpected decrease that might otherwise occur, we believe that it is appropriate to calculate the wage index values for the MSAs that contain the counties specified in section 152(b) (e.g., the Newburgh MSA) by including the wages of hospitals that were reclassified out of the area by section 152(b). We believe that we should not exclude the wages of those hospitals because Congress has provided special treatment for those hospitals, and we believe that including the wages of the reclassified hospitals appropriately reconciles the provisions of section 152(b) of Public Law 106-113, the MGCRB statutory and regulatory scheme, section 1886(d)(3)(E) of the Act, as well as the expectations of the hospitals prior to the enactment of section 152(b).

Comment: We received one comment related to our proposed treatment of Lehigh Valley Hospital's wage data under section 154(b) of Public Law 106-113. For FY 2001, Lehigh Valley Hospital was reclassified by the MGCRB to the Philadelphia MSA. The commenter argued that it was not Congress' intent that Lehigh Valley Hospital should be precluded from reclassifying.

The commenter also contended that the statutory language of section 154(b) could allow HCFA to permit Lehigh Valley Hospital to reclassify to Philadelphia, while the hospital's wage

data would still be used to calculate the Allentown-Bethlehem-Easton MSA wage index. The commenter stated that by indicating this provision that Lehigh Valley "shall be treated" as being in the Allentown MSA, Congress did not intend to prohibit Lehigh Valley from reclassifying. If this had been Congress' intent, it would have been stated as such.

Response: In the proposed rule, we included Lehigh Valley Hospital's wage data in the wage index calculation for the Allentown-Bethlehem-Easton MSA. We also indicated that we believed the statutory language of section 154(b) required us to apply the Allentown-Bethlehem-Easton MSA wage index to Lehigh Valley Hospital for payments during FY 2001. However, we note that, despite the language of section 154(b), the MGCRB did reclassify Lehigh Valley Hospital to the Philadelphia MSA for FY 2001, and the HCFA Administrator did not reverse that decision. This has the effect of leaving stand the decision by the MGCRB to reclassify Lehigh Valley Hospital into the Philadelphia MSA for purposes of calculating and applying the Philadelphia wage index.

With respect to calculating the Allentown-Bethlehem-Easton MSA wage index, section 154(b) requires that we include Lehigh Valley Hospital's wage data in calculating the wage index for this MSA. We note that the provision is effective "(n)otwithstanding any other provision of section 1886(d) of the Social Security Act." Therefore, although our normal policy is to remove the wage data of a hospital reclassified out of an area when calculating that area's wage index, section 154(b) directs us to include Lehigh's wage data in calculating the wage index for the A-B-E MSA.

2. Effects of Reclassification

The methodology for determining the wage index values for redesignated hospitals is applied jointly to the hospitals located in those rural counties that were deemed urban under section 1886(d)(8)(B) of the Act and those hospitals that were reclassified as a result of the MGCRB decisions under section 1886(d)(10) of the Act. Section 1886(d)(8)(C) of the Act provides that the application of the wage index to redesignated hospitals is dependent on the hypothetical impact that the wage data from these hospitals would have on the wage index value for the area to which they have been redesignated. Therefore, except as discussed above, as provided in section 1886(d)(8)(C) of the Act, the wage index values were determined by considering the following:

- If including the wage data for the redesignated hospitals would reduce the wage index value for the area to which the hospitals are redesignated by 1 percentage point or less, the area wage index value determined exclusive of the wage data for the redesignated hospitals applies to the redesignated hospitals.

- If including the wage data for the redesignated hospitals reduces the wage index value for the area to which the hospitals are redesignated by more than 1 percentage point, the redesignated hospitals are subject to that combined wage index value.

- If including the wage data for the redesignated hospitals increases the wage index value for the area to which the hospitals are redesignated, both the area and the redesignated hospitals receive the combined wage index value.

- The wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural areas of the State in which the hospital is located.

- Rural areas whose wage index values would be reduced by excluding the wage data for hospitals that have been redesignated to another area continue to have their wage index values calculated as if no redesignation had occurred.

- Rural areas whose wage index values increase as a result of excluding the wage data for the hospitals that have been redesignated to another area have their wage index values calculated exclusive of the wage data of the redesignated hospitals.

- The wage index value for an urban area is calculated exclusive of the wage data for hospitals that have been reclassified to another area. However, geographic reclassification may not reduce the wage index value for an urban area below the statewide rural wage index value.

We note that, except for those rural areas in which redesignation would reduce the rural wage index value, the wage index value for each area is computed exclusive of the wage data for hospitals that have been redesignated from the area for purposes of their wage index. As a result, several urban areas listed in Table 4A have no hospitals remaining in the area. This is because all the hospitals originally in these urban areas have been reclassified to another area by the MGCRB. These areas with no remaining hospitals receive the prereclassified wage index value. The prereclassified wage index value will apply as long as the area remains empty.

The final wage index values for FY 2001 are shown in Tables 4A, 4B, 4C, and 4F in the Addendum to this final rule. Hospitals that are redesignated

should use the wage index values shown in Table 4C. Areas in Table 4C may have more than one wage index value because the wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural area of the State in which the hospital is located. When the wage index value of the area to which a hospital is redesignated is lower than the wage index value for the rural area of the State in which the hospital is located, the redesignated hospital receives the higher wage index value; that is, the wage index value for the rural area of the State in which it is located, rather than the wage index value otherwise applicable to the redesignated hospitals.

Tables 4D and 4E list the average hourly wage for each labor market area, before the redesignation of hospitals, based on the FY 1997 wage data. In addition, Table 3C in the Addendum to this final rule includes the adjusted average hourly wage for each hospital based on the FY 1997 data as of July 2000 (reflecting the phase-out of GME and CRNA wages as described at section III.C of this preamble). The MGCRB will use the average hourly wage published in this final rule to evaluate a hospital's application for reclassification for FY 2002 (unless that average hourly wage is later revised in accordance with the wage data correction policy described in § 412.63(w)(2)). We note that in adjudicating these wage index reclassifications the MGCRB will use the average hourly wages for each hospital and labor market area that are reflected in the final FY 2001 wage index.

We indicated in the proposed rule that, at the time the proposed wage index was constructed, the MGCRB had completed its review of FY 2001 reclassification requests. The final FY 2001 wage index values incorporate all 493 hospitals redesignated for purposes of the wage index (hospitals redesignated under section 1886(d)(8)(B) or 1886(d)(10) of the Act, and section 152(b) Public Law 106-113) for FY 2001). Since publication of the May 5 proposed rule, the number of reclassifications has changed because some MGCRB decisions were still under review by the Administrator and because some hospitals decided to withdraw their requests for reclassification.

Changes to the wage index that resulted from withdrawals of requests for reclassification, wage index corrections, appeals, and the Administrator's review process have been incorporated into the wage index values published in this final rule. The

changes affect not only the wage index value for specific geographic areas, but also the wage index value redesignated hospitals receive; that is, whether they receive the wage index value for the area to which they are redesignated, or a wage index value that includes the data for both the hospitals already in the area and the redesignated hospitals. Further, the wage index value for the area from which the hospitals are redesignated is affected.

Comment: One commenter recommended that the average hourly wages shown in Tables 4D and 4E should be consistent with the values shown in Tables 4A and 4B. In support of this recommendation, the commenter suggested that, because our policy for computing the wage index values for urban areas excludes wages for hospitals that have reclassified to another area, the average hourly wages shown in Table 4D should be computed exclusive of the reclassified hospitals. The commenter believed the recommended change has the potential of impacting a hospital's efforts to reclassify because the hospital may not qualify based on the "unadjusted" hourly wage currently shown in Table 4D.

Response: As discussed above and in the May 5 proposed rule (65 FR 26301), the average hourly wages in Tables 4D and 4E reflect the labor market area average hourly wages before hospital redesignations. We provide the unadjusted rather than adjusted average hourly wages because the MGCRB must use unadjusted average hourly wages in determining a hospital's eligibility for reclassification. A hospital that wishes to apply for reclassification for the FY 2002 wage index (deadline is September 1, 2000) should use the average hourly wage data in Tables 3C, 4D, and 4E of the FY 2001 proposed and final rules to determine whether it meets the requirements for reclassification. With the exception of urban areas that receive the statewide rural wage index value, an urban area's adjusted average hourly wage may be calculated by multiplying the area wage index value in Table 4A by the national average hourly wage.

Comment: One commenter questioned whether the number of hospitals reclassified for the wage index for FY 2001 cited in the proposed rule (586) was accurate.

Response: The correct number of wage index reclassifications for FY 2001 at the time the proposed rule was published was 386. As stated above, the final number of wage index reclassifications is 490.

A. Wage Data Corrections

In the proposed rule, we stated that, to allow hospitals time to evaluate the wage data used to construct the proposed FY 2001 hospital wage index, we would make available in May 2000 a final public data file containing the FY 1997 hospital wage data.

The final wage data file was released on May 5, 2000. As noted above in section III.C. of this preamble, this file included hospitals' teaching survey data as well as cost report data. As with the file made available in February 2000, we made the final wage data file released in May 2000 available to hospital associations and the public (on the Internet). However, this file was made available only for the limited purpose of identifying any potential errors made by HCFA or the fiscal intermediary in the entry of the final wage data that the hospital could not have known about before the release of the final wage data public use file. It is not for the initiation of new wage data correction requests.

If, after reviewing the May 2000 final data file, a hospital believed that its wage data were incorrect due to a fiscal intermediary or HCFA error in the entry or tabulation of the final wage data, it was provided an opportunity to send a letter to both its fiscal intermediary and HCFA, outlining why the hospital believed an error exists and provide all supporting information, including dates. These requests had to be received by us and the intermediaries no later than June 5, 2000.

Changes to the hospital wage data were made only in those very limited situations involving an error by the intermediary or HCFA that the hospital could not have known about before its review of the final wage data file. Specifically, neither the intermediary nor HCFA accepted the following types of requests at this stage of the process:

- Requests for wage data corrections that were submitted too late to be included in the data transmitted to HCRIS on or before April 3, 2000.
- Requests for correction of errors that were not, but could have been, identified during the hospital's review of the February 2000 wage data file.
- Requests to revisit factual determinations or policy interpretations made by the intermediary or HCFA during the wage data correction process.
- Verified corrections to the wage index received timely (that is, by June 5, 2000) are incorporated into the final wage index in this final rule, to be effective October 1, 2000.

We believe the wage data correction process provides hospitals with sufficient opportunity to bring errors in

their wage data to the intermediary's attention. Moreover, because hospitals had access to the final wage data by early May 2000, they had the opportunity to detect any data entry or tabulation errors made by the intermediary or HCFA before the development and publication of the FY 2001 wage index and its implementation on October 1, 2000. If hospitals avail themselves of this opportunity, the FY 2001 wage index implemented on October 1 should be free of these errors. Nevertheless, we retain the right to make midyear changes to the wage index under very limited circumstances.

Specifically, in accordance with § 412.63(w)(2), we may make midyear corrections to the wage index only in those limited circumstances in which a hospital can show (1) that the intermediary or HCFA made an error in tabulating its data; and (2) that the hospital could not have known about the error, or did not have an opportunity to correct the error, before the beginning of FY 2001 (that is, by the June 5, 2000 deadline). As indicated earlier, since a hospital had the opportunity to verify its data, and the intermediary notified the hospital of any changes, we do not foresee any specific circumstances under which midyear corrections would be made. However, should a midyear correction be necessary, the wage index change for the affected area will be effective prospectively from the date the correction is made.

Comment: One commenter expressed concern about the process used in preparing the final wage index data, especially teaching survey data. The commenter was concerned that errors would not be corrected before the publication of the final rule. Without providing specific information, the commenter further stated that it still believed that there were a number of "omission errors in the data" and that the situation would have been better handled if the data were corrected and reposted.

Response: We acknowledge the commenter's concern and reiterate that the purpose of making the wage data available for review on the Internet is to allow hospitals time to evaluate the wage data used in constructing the hospital wage index. We encourage hospitals to review their data and to address and resolve issues in dispute prior to the publication of the final wage index data file. We acknowledge that the teaching physician data submitted by several providers were not accurately reported in the public use wage index data file published on May 5, 2000. Once we became aware of the errors, we

took the necessary steps to review and incorporate the appropriate data. The updated file was then made available on our Internet website at: <http://www.hcfa.gov/medicare/ippmain.htm>.

IV. Other Decisions and Changes to the Prospective Payment System for Inpatient Operating Costs and Graduate Medical Education Costs

A. Expanding the Transfer Definition to Include Postacute Care Discharges (§ 412.4)

In accordance with section 1886(d)(5)(I) of the Act, the prospective payment system distinguishes between "discharges," situations in which a patient leaves an acute care (prospective payment) hospital after receiving complete acute care treatment, and "transfers," situations in which the patient is transferred to another acute care hospital for related care. Our policy, as set forth in the regulations at § 412.4, provides that, in a transfer situation, full payment is made to the final discharging hospital and each transferring hospital is paid a per diem rate for each day of the stay, not to exceed the full DRG payment that would have been made if the patient had been discharged without being transferred.

Effective with discharges on or after October 1, 1998, section 1886(d)(5)(J) of the Act required the Secretary to define and pay as transfers all cases assigned to one of 10 DRGs (identified below) selected by the Secretary if the individuals are discharged to one of the following settings:

- A hospital or hospital unit that is not a subsection 1886(d) hospital. (Section 1886(d)(1)(B) of the Act identifies the hospitals and hospital units that are excluded from the term "subsection (d) hospital" as psychiatric hospitals and units, rehabilitation hospitals and units, children's hospitals, long-term care hospitals, and cancer hospitals.)
- A skilled nursing facility (as defined at section 1819(a) of the Act).
- Home health services provided by a home health agency, if the services relate to the condition or diagnosis for which the individual received inpatient hospital services, and if the home health services are provided within an appropriate period (as determined by the Secretary).

Therefore, any discharge from a prospective payment hospital from one of the selected 10 DRGs that is admitted to a hospital excluded from the prospective payment system on the date of discharge from the acute care hospital, on or after October 1, 1998,

would be considered a transfer and paid accordingly under the prospective payment systems (operating and capital) for inpatient hospital services. Similarly, a discharge from an acute care inpatient hospital paid under the prospective payment system to a skilled nursing facility on the same date would be defined as a transfer and paid as such. We consider situations in which home health services related to the condition or diagnosis of the inpatient admission are received within 3 days after the discharge as a transfer.

The statute specifies that the Secretary select 10 DRGs based upon a high volume of discharges to postacute care and a disproportionate use of postacute care services. We identified the following DRGs with the highest percentage of postacute care:

- DRG 14 (Specific Cerebrovascular Disorders Except Transient Ischemic Attack (Medical))
- DRG 113 (Amputation for Circulatory System Disorders Except Upper Limb and Toe (Surgical))
- DRG 209 (Major Joint Limb Reattachment Procedures of Lower Extremity (Surgical))
- DRG 210 (Hip and Femur Procedures Except Major Joint Procedures Age >17 with CC (Surgical))
- DRG 211 (Hip and Femur Procedures Except Major Joint Procedures Age >17 without CC (Surgical))
- DRG 236 (Fractures of Hip and Pelvis (Medical))
- DRG 263 (Skin Graft and/or Debridement for Skin Ulcer or Cellulitis with CC (Surgical))
- DRG 264 (Skin Graft and/or Debridement for Skin Ulcer or Cellulitis without CC (Surgical))
- DRG 429 (Organic Disturbances and Mental Retardation (Medical))
- DRG 483 (Tracheostomy Except for Face, Mouth and Neck Diagnoses (Surgical))

Generally, we pay for transfers based on a per diem payment, determined by dividing the DRG payment by the average length of stay for that DRG. The transferring hospital receives twice the per diem rate the first day and the per diem rate for each following day, up to the full DRG payment. Of the 10 selected DRGs, 7 are paid under this method. However, three DRGs exhibit a disproportionate share of costs very early in the hospital stay. For these three DRGs, hospitals receive one-half of the DRG payment for the first day of the stay and one-half of the payment they would receive under the current transfer payment method, up to the full DRG payment.

As required by section 1886(d)(5)(J)(iv) of the Act, we included in the FY 2001 proposed rule published on May 5, 2000 (65 FR 26302), a description of the effect of the provision to treat as transfers cases that are assigned to one of the 10 selected DRGs and receive postacute care upon their discharge from the hospital. Under contract with HCFA (Contract No. 500-95-0006), Health Economics Research, Inc. (HER) conducted an analysis of the impact on hospitals and hospital payments of the postacute transfer provision. The analysis sought to obtain information on four primary areas: How hospitals responded in terms of their transfer practices; a comparison of payments and costs for these cases; whether hospitals are attempting to circumvent the policy by delaying postacute care or coding the patient's discharge status as something other than a transfer; and what the next possible step is for expanding the transfer payment policy beyond the current 10 selected DRGs or the current postacute destinations.

In addition, in accordance with section 1886(d)(5)(J)(iv)(I) of the Act, we included in the May 5, 2000 proposed rule for FY 2001 a discussion of whether other postdischarge services should be added to this postacute care transfer provision. Since FY 1999 was the first year this policy was effective and because of pending changes to payment policies for other postacute care settings such as hospital outpatient departments, we have limited data to assess whether additional postacute care settings should be included. We will continue to closely monitor this issue as more data become available.

In its analysis, HER relied on HCFA's Standard Analytic Files containing claims submission data through September 1999. However, the second and third quarter submissions for calendar year 1999 were not complete. It was decided that transfer cases would be identified by linking acute hospital discharges with postacute records based on Medicare beneficiary numbers and dates of discharge from the acute hospital with dates of admission or provision of service by the postacute provider. This method was used rather than selecting cases based on the discharge status code on the claim even though this code is being used for payment to these cases because we wanted to also assess how accurately hospitals are coding this status. However, the need to link acute and postacute episodes further limited the analytic data, due to the greater time lag for collecting postacute records. Therefore, much of HER's analysis

focused on only the first two quarters of FY 1999. The two preceding fiscal years served as a baseline for purposes of comparison.

Since the publication of the May 5, 2000 proposed rule for FY 2001, HER has updated the results of its study of the impact on hospitals and hospital payments of the postacute transfer provision. In its revised analysis, HER found that the volume of postacute transfers qualifying for the lower per diem payment during the first 6 months of FY 1999 fell from 28 percent of total discharges under the 10 DRGs before the implementation of the payment change to 18 percent. It appears this decline was largely the result of a drop in the geometric mean length of stay in two high-volume DRGs (DRGs 14 and 209) that reduced the number of days qualifying a case for the per diem payment. In FY 1998, the geometric mean length of stay was 5.1 days for DRG 14 and 5.3 days for DRG 209. The geometric mean length of stay for both DRGs in FY 1999 was 4.9 days. To qualify for a per diem payment, a case's length of stay must be less than the DRG's geometric mean length of stay minus one day. Therefore, cases in these two DRGs with lengths of stay of five days were counted as qualified for per diem payments under the postacute care transfer rules in FY 1998 but not in FY 1999. Because DRGs 14 and 209 account for approximately 65 percent of the cases in the 10 DRGs, the drop in the threshold for qualifying cases contributed significantly to the magnitude of the decline in qualifying cases overall.

Correspondingly, HER found an increase in the volume and share of postacute transfers that did not qualify for the lower per diem payment. The share of long-stay postacute transfers paid under the full DRG amount (*e.g.*, those with a length of stay equal to at least one day less than the geometric mean length of stay minus one day) increased from 35 percent during the first half of FY 1998 to 43 percent during the first 6 months of FY 1999. Again, some of this increase is attributable to the drop in the geometric mean lengths of stay in DRGs 14 and 209.

According to HER, to some extent, the shift in the distribution of postacute transfers from qualifying to nonqualifying cases may suggest that hospitals have responded to the policy change by holding patients longer before releasing them to a postacute care provider. Total postacute transfers fell by 13 percent between the two payment periods, suggesting that hospitals may also have responded by resuming the

provision of services that were previously performed by postacute care providers, resulting in an elimination of some postacute transfers. However, additional analysis would be necessary to separate the effects of the drop in the geometric mean length of stay from the hospital behavioral effects.

The study shows that the average length of stay of qualifying postacute transfers rose slightly between the two payment periods, from 4.16 days before the policy change to 4.33 days after. In contrast, the average length of stay of long-stay transfers and nontransfers for the same set of DRGs fell between the two 6-month study periods, by 15.9 and 16.6 percent, respectively. This indicates that, overall, hospitals were keeping cases slightly longer prior to transfer.

The figures on the impact of "delayed" transfers (for example, those patients transferred to a postacute care provider beyond the 1 or 3 day qualifying time period) remain unchanged. HER found little evidence that hospitals are responding to the policy change by increasing the time interval between prospective payment system discharge and postacute care admission or visit.

The study also did not find evidence that changes in prospective payment system hospital treatment and discharge behavior are resulting in increased lengths of stay or numbers of visits during the subsequent postacute care episode. Average lengths of stay and number of visits at postacute care providers following provider payment system discharge actually fell between the two payment periods. It is likely that any adverse effects of hospital behavior on patient care would have manifested itself in greater postacute care lengths of stay and number of visits following the implementation of the payment reform. HER found no evidence of this.

The average cost of qualifying postacute transfers rose in real terms by 2.4 percent after the policy change. According to HER, average profits for qualifying postacute transfers fell from \$3,496 per case prior to the transfer policy change to \$2,255 following the implementation of the payment reform. Average payments with adjustments for IME, DSH and outliers declined in real terms by 9.6 percent.

HER found that the postacute transfer policy resulted in a reduction in expenditures of \$239 million during the first half of FY 1999. Annualized over a 1-year period, the policy reform lowered annual payments by an estimated \$478 million. (In our estimate of the impacts of this policy, we estimated the total impact to be \$480

million (63 FR 40977.) The estimated annual savings resulting from the policy change is equivalent to a 4.5 percent reduction in program expenditures in the 10 pilot DRGs and a 0.5 percent reduction in overall prospective payment system expenditures. The "price" effect (for example, holding hospital treatment and admission patterns constant) resulted in a savings of \$276 million during the first half of FY 1999 (or an estimated \$552 million annually). However, the decline in the number of transfers qualifying for the lower per diem, as well as the longer lengths of stay of short-stay postacute transfer cases, resulted in an offsetting reduction in savings of \$37 million during the first 6 months of FY 1999 (or \$74 million annually). As stated above, the combination of the positive "price" effect and the negative "volume" effect led to a net savings of \$239 million during the first half of FY 1999 (or an estimated \$478 million annually).

The study also examined the discharge destination codes as reported on the acute care hospital claims against postacute care transfers identified on the basis of a postacute care claim indicating the patient qualifies as a transfer. This analysis found that, in 1998, only 74 percent of transfer cases had discharge destination codes on the acute care hospital claim that were consistent with whether there was a postacute care claim for the case matching the date of discharge. In FY 1999, the year the postacute care transfer policy went into effect, this rate rose to 79 percent. This indicates that hospitals are improving the accuracy of coding transfer cases.

Transfers to hospitals or units excluded from the prospective payment system must have a discharge destination code (Patient Status) of 05. Transfers to a skilled nursing facility must have a discharge destination code of 03. Transfers to a home health agency must have a discharge destination code of 06. If the hospital's continuing care plan for the patient is not related to the purpose of the inpatient hospital admission, a condition code 42 must be entered on the claim. If the continuing care plan is related to the purpose of the inpatient hospital admission, but care did not start within 3 days after the date of discharge, a condition code 43 must be entered on the claim. The presence of either of these condition codes in conjunction with discharge destination code 06 will result in full payment rather than the transfer payment amount. We intend to closely monitor the accuracy of hospitals' discharge destination coding in this regard and take whatever steps are necessary to

ensure that accurate payment is made under this policy.

Section 1886(d)(5)(J)(iv)(II) of the Act authorized but did not require the Secretary to include as part of the proposed rule additional DRGs to include under the postacute care transfer provision. As part of "The President's Plan to Modernize and Strengthen Medicare for the 21st Century" (July 2, 1999), the Administration committed to not expanding the number of DRGs included in the policy until FY 2003. Therefore, we did not propose any change to the postacute care settings or the 10 DRGs.

HER did undertake an analysis of how additional DRGs might be considered for inclusion under the policy. The analysis supports the initial 10 DRGs selected as being consistent with the nature of the Congressional mandate. According to HER, "[t]he top 10 DRGs chosen initially by HCFA exhibit very large PAC [postacute care] levels and PAC discharge rates (except for DRG 264, Skin Graft and/or Debridement for Skin Ulcer or Cellulitis without CC, which was paired with DRG 263). All 10 appear to be excellent choices based on the other criteria as well. Most have fairly high short-stay PAC [postacute care] rates (except possibly for Strokes, DRG 14, and Mental Retardation, DRG 429)."

Extending the policy beyond these initial DRGs, however, may well require more extensive analysis and grouping of like-DRGs. One concern raised in the analysis relates to single DRGs including multiple procedures with varying lengths of stay. Because the transfer payment methodology only considers the DRG overall geometric mean length of stay for a DRG, certain procedures with short lengths of stay relative to other procedures in the same DRG may be more likely to be treated as transfers. The analysis also considers pairs of DRGs, such as DRGs 263 and 264, as well as larger bundles of DRGs (grouped by common elements such as trauma, infections, and major organ procedures). According to HER, "[i]n extending the PAC transfer policy, it is necessary to go beyond the flawed concept of a single DRG to discover multiple DRGs with a common link that exhibit similar PAC statistics. Aggregation of this sort provides a logical bridge in expanding the PAC transfer policy that is easily justified to Congress and that avoids unintended inequities in the way DRGs-and potentially hospitals-are treated under this policy. Hospitals can be inadvertently penalized or not under the

current implementation criteria due to systematic differences in the DRG mix."

Finally, the HER report concludes with a discussion of the issues related to potentially expanding the postacute care transfer policy to all DRGs. On the positive side, HER points to the benefits of expanding the policy to include all DRGs:

- A simple, uniform formula-driven policy;
- Same policy rationale exists for all DRGs-the statutory provision requiring the Secretary to select only 10 DRGs was a political compromise;
- DRGs with little utilization of short-stay postacute care would not be harmed by the policy;
- Less confusion in discharge destination coding; and
- Hospitals that happen to be disproportionately treating the current 10 DRGs may be harmed more than hospitals with an aggressive short-stay postacute care transfer policy for other DRGs.

According to HER, the negative implications of expanding the policy to all DRGs include:

- The postacute care transfer policy is irrelevant for many DRGs;
- Added burden for the fiscal intermediaries to verify discharge destination codes;
- Diluted program savings beyond the initial 10 DRGs;
- Difficulty in identifying ongoing postacute care that resumes after discharge; and
- Heterogeneous procedures within single DRGs having varying lengths of stay.

The HER report in final format may be obtained from the HCFA website at: <http://www.hcfa.gov/medicare/ippsmain.htm>

Comment: One commenter observed that in our discussion in the proposed rule (65 FR 26303) of postacute care transfers to a skilled facility, we stated that "(t)his would include cases discharged from one of the 10 selected DRGs to a designated swing bed for skilled nursing facilities." The commenter believed that HCFA clearly excluded swing bed transfers from the postacute care transfer policy in the July 31, 1998 final rule and asked for clarification.

Response: The commenter is correct that we excluded swing bed transfers from the postacute care transfer policy in the July 31, 1998 final rule (63 FR 40977). We are not changing the policy to include swing beds at this time. The sentence in question was inadvertently included in the proposed rule.

Comment: One commenter believed the transfer policy is contrary to the

design of the prospective payment system and penalizes clinical decision making by physicians in discharging their patients to the appropriate level of care. The commenter suggested that the HER study shows that the net outcome of the policy has been to pay hospitals less and increase the complexity and administrative costs of the inpatient prospective payment system. The commenter cited the disadvantages of expanding the policy to all DRGs set forth in the HER report and recommended that the Administration revisit this policy in light of the findings of the researchers that care, not finances, is driving the length of stay in these cases.

Response: We disagree with the commenter that the postacute transfer policy penalizes clinical decisionmaking by physicians in discharging their patients to the appropriate level of care, but rather believe that the policy appropriately adjusts payments to hospitals to reflect the amount of care actually provided in the acute care setting. Furthermore, this policy does not require a change in physician clinical decisionmaking nor in the manner in which physicians and hospitals practice medicine. It simply addresses the appropriate level of payments once those decisions have been made.

With respect to whether the provision is contrary to the original intent of the prospective payment system, we believe it is entirely consistent with the following statement made in the **Federal Register** during the first year of the prospective payment system in response to a comment concerning the hospital-to-hospital transfer policy: “(t)he rationale for per diem payments as part of our transfer policy is that the transferring hospital generally provides only a limited amount of treatment. Therefore, payment of the full prospective payment rate would be unwarranted” (49 FR 244). We also note that in its earliest update recommendations, the Prospective Payment Assessment Commission (MedPAC’s predecessor organization) included what it called a site-of-service substitution adjustment to account for the shifting of portions of inpatient care to other settings. We believe this provision is an appropriate and consistent response to the changing treatment practice of the hospital industry.

Though we are not expanding the policy to include all DRGs at this time, HER points to advantages as well as the disadvantages cited by the commenter of doing so, including:

- A simple, uniform formula-driven policy;
- Same policy rationale exists for all DRGs—the statutory provision requiring the Secretary to select only 10 DRGs was a political compromise;
- DRGs with little utilization of short-stay postacute care would not be harmed by the policy;
- Less confusion in discharge destination coding; and
- Hospitals that happen to be disproportionately treating the current 10 DRGs may be harmed more than hospitals with an aggressive short-stay postacute care transfer policy for other DRGs.

Finally, we also believe that care, not finances, should drive the length of stay and all other clinical decisions in these cases, and that payments should be aligned with the care given in each provider setting.

Comment: One commenter agreed with our decision to not expand the number of DRGs subject to the postacute transfer policy. The commenter believed that the policy should be revoked because the cost savings have far exceeded the estimates relied on in developing the policy and, more fundamentally, because it violates the notion of averaging that is at the heart of an appropriate prospective payment system. The commenter also believed that the introduction of prospective payment in virtually all postacute settings obviates the need for this expansion of transfer policy.

The commenter stated that the use of the geometric mean length of stay to determine the payment amount does not fully consider the medical practice patterns of physicians in different regions of the country and appears to penalize those areas that already achieved a lower length of stay.

Response: Since updating its study after the proposed rule was published, HER reports that the policy resulted in savings of \$478 million, remarkably close to our estimate of \$480 million published in the July 31, 1998 final rule (63 FR 40977). Furthermore, as we stated in our previous response, we believe that the policy is entirely consistent with the original intent of the prospective payment system.

We disagree with the commenter’s belief that the introduction of prospective payment systems to postacute settings obviates the need for the transfer policy. The purpose of the policy is to align payments with the care actually provided in the inpatient setting. The policy is particularly appropriate for areas of the country where care has been more aggressively shifted from acute to postacute settings.

B. Sole Community Hospitals (SCHs)(§§ 412.63, 412.73, and 413.75, proposed new § 412.77, and § 412.92)

Under the hospital inpatient prospective payment system, special payment protections are provided to sole community hospitals (SCHs). Section 1886(d)(5)(D)(iii) of the Act defines an SCH as, among other things, a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to Medicare beneficiaries. The regulations that set forth the criteria a hospital must meet to be classified as an SCH are located at § 412.92(a).

Currently SCHs are paid based on whichever of the following rates yields the greatest aggregate payment to the hospital for the cost reporting period: The Federal national rate applicable to the hospital; or the hospital’s “target amount”—that is, either the updated hospital-specific rate based on FY 1982 costs per discharge, or the updated hospital-specific rate based on FY 1987 costs per discharge.

Section 405 of Public Law 106–113, which amended section 1886(b)(3) of the Act, provides that an SCH that was paid for its cost reporting period beginning during 1999 on the basis of either its FY 1982 or FY 1987 target amount (the hospital-specific rate as opposed to the Federal rate) may elect to receive payment under a methodology using a third hospital-specific rate based on the hospital’s FY 1996 costs per discharge. This amendment to the statute means that, for cost reporting periods beginning on or after October 1, 2000, eligible SCHs can elect to use the allowable FY 1996 operating costs for inpatient hospital services as the basis for their target amount, rather than either their FY 1982 or FY 1987 costs.

We are aware that language in the Conference Report accompanying Public Law 106–113 indicates that the House bill (H.R. 3075) would have permitted SCHs that were being paid the Federal rate to rebase, not SCHs that were paid on the basis of either their FY 1982 or FY 1987 target amount (H.R. Conf. Rep. No. 106–479, 106th Cong., 1st Sess. at 890 (1999)). The language of the section 405 amendment to section 1886(b)(3) (which added new subparagraph (I)(ii)) clearly limits the option to substitute the FY 1996 base year to SCHs that were paid for their cost reporting periods beginning during 1999 on the basis of the target amount applicable to the hospital under section 1886(b)(3)(C).

In the May 5 proposed rule, we proposed that, when calculating an eligible SCH's FY 1996 hospital-specific rate, we utilize the same basic methodology used to calculate FY 1982 and FY 1987 bases. That methodology is set forth in §§ 412.71 through 412.75 of the regulations and discussed in detail in several prospective payment system documents published in the **Federal Register** on September 1, 1983 (48 FR 3977); January 3, 1984 (49 FR 256); June 1, 1984 (49 FR 23010); and April 20, 1990 (55 FR 15150).

Since we anticipate that eligible hospitals will elect the option to rebase using their FY 1996 cost reporting periods, we proposed that our fiscal intermediaries would identify those SCHs that were paid for their cost reporting periods beginning during 1999 on the basis of their target amounts. For these hospitals, fiscal intermediaries would calculate the FY 1996 hospital-specific rate as described below in this section IV.B. If this rate exceeds a hospital's current target amount based on the greater of the FY 1982 or FY 1987 hospital-specific rate, the hospital will receive payment based on the FY 1996 hospital-specific rate (based on the blended amounts described at section 1886(b)(3)(I)(i) of the Act) unless the hospital notifies its fiscal intermediary in writing prior to the end of the cost reporting period that it does not wish to be paid on the basis of the FY 1996 hospital-specific rate. Thus, if a hospital does not notify its fiscal intermediary before the end of the cost reporting period that it declines the rebasing option, we would deem the lack of such notification as an election to have section 1886(b)(3)(I) of the Act apply to the hospital.

We further proposed that an SCH's decision to decline this option for a cost reporting period will remain in effect for subsequent periods until such time as the hospital notifies its fiscal intermediary otherwise.

The FY 1996 hospital-specific rate will be based on FY 1996 cost reporting periods beginning on or after October 1, 1995 and before October 1, 1996, that are 12 months or longer. If the hospital's last cost reporting period ending on or before September 30, 1996 is less than 12 months, the hospital's most recent 12-month or longer cost reporting period ending before the short period report would be utilized in the computations. If a hospital has no cost reporting period beginning in FY 1996, it would not have a hospital-specific rate based on FY 1996.

For each hospital eligible for FY 1996 rebasing, the fiscal intermediary will calculate a hospital-specific rate based

on the hospital's FY 1996 cost report as follows:

- Determine the hospital's total allowable Medicare inpatient operating cost, as stated on the FY 1996 cost report.
- Divide the total Medicare operating cost by the number of Medicare discharges in the cost reporting period to determine the FY 1996 base period cost per case. For this purpose, transfers are considered to be discharges.
- In order to take into consideration the hospital's individual case-mix, divide the base year cost per case by the hospital's case-mix index applicable to the FY 1996 cost reporting period. This step is necessary to standardize the hospital's base period cost for case-mix and is consistent with our treatment of both FY 1982 and FY 1987 base-period costs per case. A hospital's case-mix is computed based on its Medicare patient discharges subject to DRG-based payment.

We proposed that the fiscal intermediary will notify eligible hospitals of their FY 1996 hospital-specific rate prior to October 1, 2000. Consistent with our policies relating to FY 1982 and FY 1987 hospital-specific rates, we proposed to permit hospitals to appeal a fiscal intermediary's determination of the FY 1996 hospital-specific rate under the procedures set forth in 42 CFR part 405, subpart R, which concern provider payment determinations and appeals. In the event of a modification of base period costs for FY 1996 rebasing due to a final nonappealable court judgment or certain administrative actions (as defined in § 412.72(a)(3)(i)), the adjustment would be retroactive to the time of the intermediary's initial calculation of the base period costs, consistent with the policy for rates based on FY 1982 and FY 1987 costs.

Section 405 prescribes the following formula to determine the payment for SCHs that elect rebasing:

- For discharges during FY 2001:
- 75 percent of the updated FY 1982 or FY 1987 former target (identified in the statute as the "subparagraph (C) target amount"), plus
 - 25 percent of the updated FY 1996 amount (identified in the statute as the "rebased target amount").
- For discharges during FY 2002:
- 50 percent of the updated FY 1982 or FY 1987 former target, plus
 - 50 percent of the updated FY 1996 amount.
- For discharges during FY 2003:
- 25 percent of the updated FY 1982 or FY 1987 former target, plus
 - 75 percent of the updated FY 1996 amount.

For discharges during FY 2004 or any subsequent fiscal year, the hospital-specific rate would be determined based on 100 percent of the updated FY 1996 amount.

We proposed to add a new § 412.77 and amend § 412.92(d) to incorporate the provisions of section 1886(b)(3)(I) of the Act, as added by section 405 of Public Law 106-113.

Section 406 of Public Law 106-113 amended section 1886(b)(3)(B)(i)(XVI) of the Act to provide, for fiscal year 2001, for full market basket updates to both the Federal and hospital-specific payment rates applicable to sole community hospitals. In the May 5 proposed rule, we proposed to amend §§ 412.63, 412.73, and 412.75 to incorporate the amendment made by section 406 of Public Law 106-113.

We received several public comments on our proposal.

Comment: Several commenters discussed the difference between the language in the statutory provision, which limits the updated 1996-rebasing option to SCHs that were paid on the basis of their target amount (hospital specific rate) in 1999, and the language of the accompanying Conference report (H.R. Conf. Rep. No. 106-479, 106th Cong., 1st Sess. at 890 (1999)). The Conference report indicated that the House bill (H.R. 3075) would have permitted SCHs that were being paid the Federal rate to rebase rather than SCHs that were paid on the basis of either their FY 1982 or FY 1987 target amount. One commenter, in particular, believed that despite the clear statutory language, HCFA had the ability to allow leeway in determining which hospitals were eligible to elect 1996 rebasing. In support of this view, the commenter made the assertion that the Federal rate used in SCH payment computations included outlier and disproportionate share payments (DSH) as well as other special provisions. Therefore, the hospital-specific rate should be compared to the base Federal rate of the geographic area, without the add-ons, to determine which amount would yield the largest payment. Additionally, the total Federal payments on the hospital's cost report may exceed the hospital-specific payments in some years, while falling below them in other years because of the potential fluctuations of outliers and DSH payments. The commenter argued, therefore, that to determine whether an SCH is to be paid on the basis of the target amount, hospital-specific payments should be compared to the base Federal payments without the addition of outliers and DSH payments.

Response: We disagree with the commenter's argument. The commenter is correct in saying that in any one year, the target amount may be exceeded by calculations of the Federal rate. This is the reason why the calculation is done yearly, so that the hospital may receive the highest possible payment for that specific year based on a comparison of what each payment scheme would generate for the hospital. The statute clearly states the rebasing option is available to an SCH that, for its cost reporting period beginning on or after October 1, 2000, is paid on the basis of the target amount. As we stated in the proposed rule, we are aware of the difference between this rebasing plan set forth in section 405 of Public Law 106-113 and the one described in the Conference Report, but the unambiguous language of the statute controls over the language of the Conference Report.

Comment: One commenter pointed to an inconsistency between the text of proposed § 412.77 and the preamble to the proposed rule. The preamble stated that, in the absence of notification to the contrary from the hospital, the intermediary will base payment on the 1996 hospital specific rate, if this rate exceeds the 1982 or 1987 hospital-specific rate. The proposed regulation language at § 412.77(a) indicated that, in the absence of notification, the hospital payment would be based on the 1996 hospital specific rate without the qualification that this rate would need to exceed the 1982 or 1987 base year rates.

Response: We believe that the commenter's concern about inconsistency may stem from a typographical error that appeared in the text of proposed § 412.77 in the proposed rule, that incorrectly referenced § 412.72, rather than revised § 412.92. The payment determination formula used for SCHs is set forth in § 412.92(d), which has been revised to include the 1996 rebasing option. That formula clearly states that an SCH is paid based on whichever yields the greatest aggregate payment for the cost reporting period: the Federal payment rate, the 1982 or 1987 hospital-specific rate, or the 1996 hospital-specific rate. We have deleted the incorrect reference to § 412.72. In addition, for the sake of clarity, we have added a sentence to § 412.77(a)(1), further modified § 412.92(d)(1), and added a new § 412.92(d)(2) (the existing paragraph (d)(2) is redesignated as paragraph (d)(3)).

Comment: One commenter disagreed with the proposal that the intermediary should include the 1996 hospital

specific rate in its payment calculations if it is higher than either the 1982 or 1987 hospital specific rates, in the absence of notification to the contrary. Rather, the commenter suggested that an eligible hospital be required to state its choice to be paid on this basis.

Response: We believe that it is more efficient from an administrative standpoint to require a hospital to notify its fiscal intermediary if it chooses not to receive payment based on the (higher) FY 1996 hospital-specific rate. The only time that a hospital that is eligible for rebasing will be paid based on its 1996 amount is if that amount is higher than either the 1982 or 1987 hospital specific rates and also higher than the Federal rate. We do not know why a hospital would elect not to receive payment based on the highest of its possible choices. Therefore, rather than requiring a hospital to provide written notification to the fiscal intermediary when its FY 1996 hospital-specific rate is higher than its FY 1982 and FY 1987 hospital-specific rates, we deem the hospital to have made an election to be paid based on the FY 1996 hospital-specific rate, unless it notifies its fiscal intermediary otherwise.

Comment: Two commenters requested a clarification as to the proposed timing for a hospital that is eligible for payment based on its 1996 hospital-specific rate to notify its intermediary of its intention not to elect payment based on this rate.

Response: We agree that in the proposed rule the preamble and the proposed regulation language were contradictory. Accordingly, we are revising § 412.77(a)(2) to require that an eligible hospital must notify its intermediary of its intent not to elect payment based on its FY 1996 hospital-specific rate prior to the end of the cost reporting period for which the payments would otherwise be made. This schedule will allow hospitals an opportunity to consider their options.

C. Rural Referral Centers (§ 412.96)

Under the authority of section 1886(d)(5)(C)(i) of the Act, the regulations at § 412.96 set forth the criteria a hospital must meet in order to receive special treatment under the prospective payment system as a rural referral center (RRC). For discharges occurring before October 1, 1994, RRCs received the benefit of payment based on the other urban amount rather than the rural standardized amount. Although the other urban and rural standardized amounts were the same for discharges beginning with that date, RRCs would continue to receive special treatment under both the DSH payment

adjustment and the criteria for geographic reclassification.

As discussed in 62 FR 45999 and 63 FR 26317, under section 4202 of Public Law 105-33, a hospital that was classified as an RRC for FY 1991 is to be classified as an RRC for FY 1998 and later years so long as that hospital continued to be located in a rural area and did not voluntarily terminate its RRC status. Otherwise, a hospital seeking RRC status must satisfy applicable criteria. One of the criteria under which a hospital may qualify as an RRC is to have 275 or more beds available for use. A rural hospital that does not meet the bed size requirement can qualify as an RRC if the hospital meets two mandatory prerequisites (specifying a minimum case-mix index and a minimum number of discharges) and at least one of three optional criteria (relating to specialty composition of medical staff, source of inpatients, or referral volume). With respect to the two mandatory prerequisites, a hospital may be classified as an RRC if its—

- Case-mix index is at least equal to the lower of the median case-mix index for urban hospitals in its census region, excluding hospitals with approved teaching programs, or the median case-mix index for all urban hospitals nationally; and
- Number of discharges is at least 5,000 per year, or if fewer, the median number of discharges for urban hospitals in the census region in which the hospital is located. (The number of discharges criterion for an osteopathic hospital is at least 3,000 discharges per year.)

1. Case-Mix Index

Section 412.96(c)(1) provides that 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 RRC status. The methodology we use to determine the national and regional case-mix index values is set forth in regulations at § 412.96(c)(1)(ii). The proposed national case-mix index value for FY 2001 in the May 5 proposed rule included all urban hospitals nationwide, and the regional values are the median values of urban hospitals within each census region, excluding those with approved teaching programs (that is, those hospitals receiving indirect medical education payments as provided in § 412.105). These values were based on discharges occurring during FY 1999 (October 1, 1998 through September 30, 1999) and include bills posted to HCFA's records through March 2000.

We proposed that, in addition to meeting other criteria, hospitals with fewer than 275 beds, if they are to qualify for initial RRC status for cost reporting periods beginning on or after October 1, 2000, must have a case-mix index value for FY 1999 that is at least—

- 1.3408; or
- The median case-mix index value for urban hospitals (excluding hospitals with approved teaching programs as identified in § 412.105) calculated by HCFA for the census region in which the hospital is located. (See the table set forth in the May 5, 2000 proposed rule at 65 FR 26306.)

Based on the latest data available (FY 1999 bills received through March 31, 2000), the median case-mix values by region are set forth in the table below.

Region	Case-mix index value
1. New England (CT, ME, MA, NH, RI, VT)	1.2289
2. Middle Atlantic (PA, NJ, NY)	1.2385
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV) ..	1.3113
4. East North Central (IL, IN, MI, OH, WI)	1.2623
5. East South Central (AL, KY, MS, TN)	1.2661
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	1.1822
7. West South Central (AR, LA, OK, TX)	1.2813
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	1.3250
9. Pacific (AK, CA, HI, OR, WA)	1.3036

For the benefit of hospitals seeking to qualify as RRCs or those wishing to know how their case-mix index value compares to the criteria, we are publishing each hospital's FY 1999 case-mix index value in Table 3C in section VI. 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.

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 RRC status. As specified in section 1886(d)(5)(C)(ii) of the Act, the national standard is set at 5,000 discharges. However, in the May 5 proposed rule, we proposed to update the regional standards. The proposed regional standards were based on discharges for urban hospitals' cost reporting periods that began during FY 1998 (that is, October 1, 1997 through

September 30, 1998). That is the latest year for which we have complete discharge data available.

Therefore, we proposed that, in addition to meeting other criteria, a hospital, if it is to qualify for initial RRC status for cost reporting periods beginning on or after October 1, 2000, must have as the number of discharges for its cost reporting period that began during FY 1999 a figure that is at least—

- 5,000; or
- The median number of discharges for urban hospitals in the census region in which the hospital is located. (See the table set forth in the May 5, 2000 proposed rule at 65 FR 26307.)

Based on the latest discharge data available for FY 1999, the final median number of discharges for urban hospitals by census region areas are as follows:

Region	Number of discharges
1. New England (CT, ME, MA, NH, RI, VT)	6,725
2. Middle Atlantic (PA, NJ, NY)	8,736
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV) ..	7,911
4. East North Central (IL, IN, MI, OH, WI)	7,661
5. East South Central (AL, KY, MS, TN)	6,883
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	5,829
7. West South Central (AR, LA, OK, TX)	5,385
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	8,026
9. Pacific (AK, CA, HI, OR, WA)	6,268

We note that the number of discharges for hospitals in each census region is greater than the national standard of 5,000 discharges. Therefore, 5,000 discharges is the minimum criterion for all hospitals.

We reiterate that an osteopathic hospital, if it is to qualify for RRC status for cost reporting periods beginning on or after October 1, 2000, must have at least 3,000 discharges for its cost reporting period that began during FY 1999.

We did not receive any comments on the RRC criteria.

D. Indirect Medical Education (IME) Adjustment (§ 412.105)

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals that have residents in an approved graduate medical education (GME) program receive an additional payment to reflect the higher indirect operating costs associated with GME. The regulations regarding the calculation of this additional payment,

known as the indirect medical education (IME) adjustment, are located at § 412.105.

Section 111 of Public Law 106-113 modified the transition for the IME adjustment that was established by Public Law 105-33. We are publishing these changes in a separate interim final rule with comment period that appears elsewhere in this issue of the **Federal Register**. However, for discharges occurring during FY 2001, the adjustment formula equation used to calculate the IME adjustment factor is $1.54 \times [(1+r)^{.405} - 1]$. (The variable r represents the hospital's resident-to-bed ratio.)

In the proposed rule, we inadvertently omitted the revised transition for the IME adjustment for FYs 2002 and thereafter. Specifically, for discharges occurring on or after October 1, 2001, the adjustment formula equation used to calculate the IME adjustment factor is $1.35 \times [(1+r)^{.405} - 1]$. We are adding a new § 412.105(d)(3)(vi) to reflect this change.

In the July 30, 1999 final rule (64 FR 41517), we set forth certain policies that affected payment for both direct and indirect GME. These policies related to adjustments to full-time equivalent (FTE) resident caps for new medical residency programs affecting both direct and indirect GME programs; the adjustment to GME caps for certain hospitals under construction prior to August 5, 1997 (the enactment date of Public Law 105-33) to account for residents in new medical residency training programs; and the temporary adjustment to FTE caps to reflect residents affected by hospital closures. When we amended the regulations under § 413.86 for direct GME, we inadvertently did not make the corresponding changes in § 412.105 for IME. In the May 5 proposed rule, we proposed to make the following conforming changes:

- To amend § 412.105(f)(1)(vii) to provide for an adjustment to the FTE caps for new medical residency programs as specified under § 413.86(g)(6).
- To add a new § 412.105(f)(1)(viii) related to the adjustment to the FTE caps for newly constructed hospitals that sponsor new residency programs in effect on or after January 1, 1995, and on or before August 5, 1997, that either received initial accreditation by the appropriate accrediting body or temporarily trained residents at another hospital(s) until the facility was completed, to conform to the provisions of § 413.86(g)(7).
- To add a new § 412.105(f)(1)(ix) to specify that a hospital may receive a

temporary adjustment to its FTE cap to take into account residents added because of another hospital's closure if the hospital meets the criteria listed under § 413.86(g)(8).

In addition, we proposed to add a cross-reference to “§ 413.86(d)(3)(i) through (v)” in § 412.105(g), and to correct the applicable period in both §§ 412.105(g) and 413.86(d)(3) by revising the phrase “For portions of cost reporting periods beginning on or after January 1, 1998” to read “For portions of cost reporting periods occurring on or after January 1, 1998”.

We received one public comment on the proposed changes to the IME regulations.

Comment: One commenter recommended that the temporary adjustment allowed to a hospital's FTE cap under the proposed § 412.105(f)(1)(ix) to account for residents added because of another hospital's closure should be a permanent adjustment to maintain the current level of trainees.

Response: In the proposed rule, we were merely making a conforming change to the IME regulations based on a change in the GME regulations in the July 30, 1999 final rule. As indicated in the July 30, 1999 final rule (65 FR 41522), we continue to believe that, when a hospital assumes the training of additional residents because of another hospital's closure, an adjustment to the hospital's FTE cap should only be available for the period of time necessary to train those displaced residents. At that time we provided for the temporary adjustment because of hospitals' reluctance to accept additional residents from a closed hospital without a temporary adjustment to their caps. We do not believe currently there is justification for a permanent adjustment because of the temporary training provisions for the displaced residents.

E. Payments to DSH Hospitals (§ 412.106)

1. Changes to the DSH Formula

Effective for discharges beginning on or after May 1, 1986, hospitals that treat a disproportionately large number of low-income patients (as defined in section 1886(d)(5)(F) of the Act) receive additional payments through the DSH adjustment. Section 4403(a) of Public Law 105-33 amended section 1886(d)(5)(F) of the Act to reduce the payment a hospital would otherwise receive under the current DSH formula by 1 percent for FY 1998, 2 percent for FY 1999, 3 percent for FY 2000, 4 percent for FY 2001, 5 percent for 2002,

and 0 percent for FY 2003 and each subsequent fiscal year. Subsequently, section 112 of Public Law 106-113 modified the amount of the reductions under Public Law 105-33 by changing the reduction to 3 percent for FY 2001 and 4 percent for FY 2002. The reduction continues to be 0 percent for FY 2003 and each subsequent fiscal year. In the May 5 proposed rule, we proposed to revise § 412.106(e) to reflect the changes in the statute made by Public Law 106-113.

Section 112 of Public Law 106-113 also directs the Secretary to require prospective payment system hospitals to submit data on the costs incurred by the hospitals for providing inpatient and outpatient hospital services for which the hospitals are not compensated, including non-Medicare bad debt, charity care, and charges for medical and indigent care to the Secretary as part of hospitals' cost reports. These data are required for cost reporting periods beginning on or after October 1, 2001. We will be revising our instructions to hospitals for cost reports for FY 2002 to capture these data.

Comment: Several commenters provided positive reinforcement concerning the impending collection of uncompensated care data via offers of assistance in this effort. Also, commenters made the point that, at this time, uncompensated care does not have a common national definition.

Response: We are aware that uncompensated care does not currently have a common national definition. One of our tasks will be to define the reporting parameters so that the data will be reported in a uniform manner. This is the main reason that we have not sought to use uncompensated care data in the Medicare DSH adjustment calculation in the past. We will keep these comments in mind as we proceed.

Comment: One commenter was concerned about the pending publication of the Report to Congress on the Medicare DSH formula. This commenter asked HCFA to complement its data collection efforts by issuing the report as required by Public Law 105-33.

Response: We are in the process of completing this report and intend to submit it to Congress in the near future.

2. DSH Adjustment Calculation: Change in the Treatment of Certain Medicaid Patient Days in States With Section 1115 Expansion Waivers

On January 20, 2000, we published in the **Federal Register** an interim final rule with comment period (65 FR 3136) to implement a change in the Medicare DSH adjustment calculation policy in

reference to section 1115 expansion waiver days. That interim final rule set forth criteria to use in calculating the Medicare DSH adjustment for hospitals for purposes of payment under the prospective payment system.

Under section 1886(d)(5)(F) of the Act, an adjustment is made to the hospital's inpatient prospective payment system payment for serving a disproportionate share of low-income or Medicaid and Medicare patients. The size of a hospital's Medicare DSH adjustment is based on the sum of the percentage of patient days attributable to patients eligible for both Medicare Part A and Supplemental Security Income (SSI) and the percentage of patient days attributable to patients eligible for Medicaid but not Medicare Part A.

Some States provide medical assistance (Medicaid) under a demonstration project (also referred to as a section 1115 waiver).

Under policy in existence before the January 20, 2000 interim final rule, hospitals were to include in the Medicare DSH calculation only those days for populations under the section 1115 waiver who were or could have been made eligible under a State Medicaid plan. Patient days of the expanded eligibility groups, however, were not to be included in the Medicare DSH calculation.

In the January 20, 2000 interim final rule with comment period, we revised the policy, effective with discharges occurring on or after January 20, 2000, to allow hospitals to include the patient days of all populations eligible for Title XIX matching payments in a State's section 1115 waiver in calculating the hospital's Medicare DSH adjustment. This policy was reflected in a revision to § 412.106 of the regulations.

We received 11 public comments on the inclusion of Section 1115 waiver days in the Medicare disproportionate share adjustment calculation.

Comment: Several commenters were concerned with the inclusion in the January 20, 2000 interim final rule with comment period of expansion waiver days in the Medicaid portion of the Medicare DSH adjustment calculation. States without a Medicaid expansion waiver in place believed that States that did have a Medicaid expansion waiver in place received an unfair advantage. In addition, comments from Pennsylvania hospitals supported the continued inclusion of general assistance days in the Medicaid portion of the Medicare DSH adjustment calculation as well as expansion waiver days. Finally, some commenters urged HCFA to revise the

Medicare DSH adjustment calculation to include charity care days.

Response: While we initially determined that States under a Medicaid expansion waiver could not include those expansion waiver days as part of the Medicare DSH adjustment calculation, we have since consulted extensively with Medicaid staff and have determined that section 1115 expansion waiver days are utilized by patients whose care is considered to be an approved expenditure under Title XIX. While this does advantage States that have a section 1115 expansion waiver in place, these days are considered to be Title XIX days by Medicaid standards.

Some States operate under a section 1115 waiver without an expansion (for example, Arizona). The days that are utilized by patients under the section 1115 waiver are already part of the Medicaid portion of the Medicare DSH adjustment calculation because the section 1115 waiver includes patients who otherwise would have been eligible for Medicaid Title XIX.

General assistance days are days for patients covered under a State-only or county-only general assistance program, whether or not any payment is available for health care services under the program. Charity care days are those days that are utilized by patients who cannot afford to pay and whose care is not covered or paid by any health insurance program. While we recognize that these days may be included in the calculation of a State's Medicaid DSH payments, these patients are not Medicaid-eligible under the State plan and are not considered Title XIX beneficiaries. Therefore, Pennsylvania, and other States that have erroneously included these days in the Medicare disproportionate share adjustment calculation in the past, will be precluded from including such days in the future. We would like to point out that these States were held harmless from adverse action in this matter for any cost reporting period beginning prior to December 31, 1999. We are in the process of preparing a Report to Congress on the Medicare DSH adjustment calculation which presents various options for calculating the adjustment.

Comment: One commenter was concerned about the inclusion of days in the Medicaid portion of the Medicare DSH adjustment calculation for additional States that are approved for expansion waivers in the future. Also, this commenter questioned whether or not the expenditures related to the expansion waiver days for Medicare DSH would be considered in the budget

neutrality evaluation prior to approval of the expansion waiver application.

Response: As stated in the January 20, 2000 interim final rule with comment period, days utilized under section 1115 expansion waivers will be included in the Medicaid portion of the Medicare DSH adjustment calculation. As a result, the days utilized under any approved section 1115 expansion waiver in the future would be included in this calculation. However, the State will not be held accountable for the expenditures associated with Medicare DSH in the budget neutrality test for the section 1115 expansion waiver, as those payments are made from the Medicare program, not the Medicaid program.

Comment: Several commenters were concerned that the inclusion of section 1115 expansion waiver days was effective on January 20, 2000, rather than on January 1, 2000. These same commenters pointed out that the hold harmless provisions of Program Memorandum A-99-62 (December 1999) concern hospitals whose cost reporting periods begin on or prior to December 31, 1999. Therefore, many hospitals may be paid differently during different periods of the same cost report.

Response: We understand that discharges prior to January 20, 2000 will be handled one way, and discharges as of January 20, 2000 may be paid differently. While we can enforce an existing policy for a previous time period, we do not believe we can retroactively institute new policy.

F. Medicare Geographic Classification Review Board (§§ 412.256 and 412.276)

With the creation of the Medicare Geographic Classification Review Board (MGCRB), beginning in FY 1991, under section 1886(d)(10) of the Act, hospitals could request reclassification from one geographic location to another for the purpose of using the other area's standardized amount for inpatient operating costs or the wage index value, or both (September 6, 1990 interim final rule with comment period (55 FR 36754), June 4, 1991 final rule with comment period (56 FR 25458), and June 4, 1992 proposed rule (57 FR 23631)). Implementing regulations in Subpart L of Part 412 (§ 412.230 *et seq.*) set forth criteria and conditions for redesignations from rural to urban, rural to rural, or from an urban area to another urban area with special rules for SCHs and RRCs.

1. Provisions of Public Law 106-113

Section 401 of Public Law 106-113 amended section 1886(d)(8) of the Act by adding subparagraph (E), which creates a mechanism, separate and apart

from the MGCRB, permitting an urban hospital to apply to the Secretary to be treated as being located in the rural area of the State in which the hospital is located. The statute directs the Secretary to treat a qualifying hospital as being located in a rural area for purposes of provisions under section 1886(d) of the Act. In addition, section 401 of Public Law 106-113 went on to provide for such reclassifications from urban to rural for purposes of Medicare payments to outpatient departments and to hospitals that would qualify to become critical access hospitals.

Regulations implementing section 1886(d)(8)(E) of the Act are included in an interim final rule with comment period implementing certain provisions of Public Law 106-113 published elsewhere in this issue of the **Federal Register**. The statutory language of section 1886(d)(8)(E) of the Act does not address the issue of interactions between changes in classification under section 1886(d)(8)(E) of the Act and the MGCRB reclassification process under section 1886(d)(10) of the Act. The Secretary has extremely broad authority under section 1886(d)(10) of the Act to establish criteria for reclassification under the MGCRB process. Section 401 of Public Law 106-113 does not amend section 1886(d)(10) of the Act to limit the agency's discretion under the provision in any way, nor does section 1886(d)(8)(E) of the Act (as added by section 401) refer to section 1886(d)(10) of the Act. However, we note that in the Conference Report accompanying Public Law 106-113, the language discussing the House bill (H.R. 3075, as passed) indicates that: "[H]ospitals qualifying under this section shall be eligible to qualify for all categories and designations available to rural hospitals, including sole community, Medicare dependent, critical access, and referral centers. Additionally, qualifying hospitals shall be eligible to apply to the Medicare Geographic Reclassification Review Board for geographic reclassification to another area".

In the May 5, 2000 proposed rule, we indicated that we are concerned that section 1886(d)(8)(E) might create an opportunity for some urban hospitals to take advantage of the MGCRB process by first seeking to be reclassified as rural under section 1886(d)(8)(E) (and receiving the benefits afforded to rural hospitals) and in turn seek reclassification through the MGCRB back to the urban area for purposes of their standardized amount and wage index and thus also receive the higher payments that might result from being treated as being located in an urban area. That is, we were concerned that

some hospitals might inappropriately seek to be treated as being located in a rural area for some purposes and as being located in an urban area for other purposes. In light of the Conference Report language noted above discussing the House bill and what appears to be the potential for inappropriately inconsistent treatment of the same hospital on the other hand, in the May 5 proposed rule, we solicited public comment on this issue, and indicated that we might impose a limitation on such MGCRB reclassifications in this final rule for FY 2001, if such action appears warranted. We also sought specific comments on how such a limitation, if any, should be imposed and provided several examples and alternatives.

We received seven public comments on the interaction of urban to rural reclassification under section 1886(d)(8)(E) and reclassification under the MGCRB. Several additional comments were received regarding specific aspects of implementation of section 1886(d)(8)(E) of the Act (added by section 401 of Public Law 106–113). These issues are addressed in the interim final rule with comment period, published elsewhere in this issue of the **Federal Register**, that implements certain provisions of Public Law 106–113.

Comment: Several of our commenters urged HCFA to place no restrictions on access to MGCRB reclassification for urban hospitals that have elected to reclassify to rural under section 1886(d)(8)(E) of the Act, citing the Conference Report as evidence of the Congressional intent in enacting this provision. These commenters argued that these now-rural hospitals should receive the same treatment as geographically rural hospitals, noting that current Medicare policy permits geographically rural hospitals to reclassify, under the MGCRB, to urban areas for their wage index or standard payment amounts, or both. This means that geographically rural hospitals can take advantage of both rural as well as urban payment amounts. This same option, these commenters asserted, should be available to urban hospitals that petition for reclassification under section 1886(d)(8)(E).

Response: Under section 1886(d)(8)(E) of the Act, as added by section 401 of the Public Law 106–113, a hospital located in an urban area may file an application to be treated as being located in a rural area for purposes of payment under section 1886(d) of the Act. The issue here is whether a hospital that has been reclassified from an urban area to a rural area under

section 1886(d)(8)(E) of the Act should be permitted to subsequently be reclassified under the MGCRB process from the rural area to another area. As discussed below, we believe that, for purposes of the MGCRB process, it is appropriate to distinguish between hospitals that are reclassified as rural under section 1886(d)(8)(E) of the Act and hospitals that are geographically rural. However, in light of our understanding of the intent underlying the language in the Conference Report for Public Law 106–113, we are revising a policy relating to RRCs so that certain urban hospitals that are not RRCs under current policy will be granted RRC status and can receive special treatment under the MGCRB process.

Section 1886(d)(8)(E) of the Act, as added by section 401 of Public Law 106–113, provides that, for purposes of section 1886(d) of the Act, if a hospital files an application and meets applicable criteria, the Secretary “shall treat the hospital as being located in the rural area * * * of the State in which the hospital is located.” As discussed above and in the proposed rule, a description of the House bill in the Conference Report for Public Law 106–113 indicates that hospitals reclassified as rural under section 1886(d)(8)(E) of the Act would be “eligible to apply” to the MGCRB for reclassification under the MGCRB process. Significantly, however, the terms of section 1886(d)(8)(E) of the Act do not refer to section 1886(d)(10) of the Act (which addresses the MGCRB reclassification process), and section 401 of Public Law 106–113 did not amend section 1886(d)(10) of the Act to limit the agency’s discretion under that provision in any way. Put another way, section 1886(d)(8)(E) of the Act does not contain any language indicating that hospitals treated as rural under that provision can subsequently be treated as urban under section 1886(d)(10) of the Act, and section 1886(d)(10) does not contain language indicating that the Secretary must permit reclassification to an urban area of hospitals treated as rural under section 1886(d)(8)(E) of the Act. Thus, under the statute, the Secretary has broad discretion to determine when MGCRB reclassification is appropriate and, in enacting section 401 of Public Law 106–113, Congress did not enact any statutory amendments to limit that discretion in any way.

The statutory language of section 1886(d)(8)(E) of the Act directs the Secretary to treat qualifying hospitals, for purposes of section 1886(d) of the Act, “as being located in the rural area * * * of the State in which the hospital is located”. Section 1886(d) of the Act

encompasses the hospital wage index and the standardized amount. Consistent with the statutory language, we are providing that a hospital reclassified as rural under section 1886(d)(8)(E) of the Act will be treated as being located in a rural area for purposes of section 1886(d) of the Act, and cannot subsequently be reclassified under the MGCRB process to an urban area (in order to be treated as being located in an urban area for certain purposes under section 1886(d) of the Act).

This policy is consistent not only with the statutory language but also with the policy considerations underlying the MGCRB process. The MGCRB process permits a hospital to be reclassified from one geographic area to another if it is significantly disadvantaged by its geographic location and would be paid more appropriately if it were reclassified to another area. We believe that it would be illogical to permit a hospital that applied to be reclassified from urban to rural under section 1886(d)(8)(E) of the Act because it was disadvantaged as an urban hospital to then utilize a process that was established to enable hospitals significantly disadvantaged by their rural or small urban location to reclassify to another urban location. If an urban hospital applies under section 1886(d)(8)(E) of the Act in order to be treated as being located in a rural area, then it would be anomalous at best for the urban hospital to subsequently claim that it is significantly disadvantaged by the rural status for which it applied and should be reclassified to an urban area.

Furthermore, permitting hospitals the option of seeking rural reclassification under section 1886(d)(8)(E) of the Act for certain payment advantages, coupled with the ability to pursue a subsequent MGCRB reclassification back to an urban area, could have implications beyond those originally envisioned under Public Law 106–113. In particular, we are concerned about the potential interface between rural reclassifications under section 401 and section 407(b)(2) of Public Law 106–113, which authorizes a 30-percent expansion in a rural hospital’s resident full-time equivalent count for purposes of Medicare payment for the indirect costs of medical education (IME) under section 1886(d)(5)(B) of the Act. (Reclassification from urban to rural under section 1886(d)(8)(E) of the Act can affect IME payments to a hospital, which are made under section 1886(d)(5)(B) of the Act, but not payments for the direct costs of GME,

which are made under section 1886(h) of the Act.)

Congress clearly intended hospitals that become rural under section 1886(d)(8)(E) of the Act to receive some benefit as a result. For example, some hospitals currently located in very large urban counties are in fact fairly small, isolated hospitals. Some of these hospitals will now be able to be designated a rural hospital and become eligible to be designated a critical access hospital.

In addition, one of the criteria under section 1886(d)(8)(E) of the Act is that the hospital would qualify as an SCH or an RRC if it were located in a rural area. An SCH would be eligible to be paid on the basis of the higher of its hospital-specific rate or the Federal rate. On the other hand, the only benefit under section 1886(d) of the Act for an urban hospital to become an RRC would be waiver of the proximity requirements that are otherwise applicable under the MGCRB process, as set forth in § 412.230(a)(3).

We agree with the commenters that Congress contemplated that hospitals might seek to be reclassified as rural under section 1886(d)(E) of the Act in order to become RRCs so that the hospital would be exempt from the MGCRB proximity requirement and could be reclassified by the MGCRB to another urban area. -

Therefore, we sought a policy approach that would appropriately account for our concern that these urban to rural redesignations not be utilized inappropriately, but would benefit hospitals seeking to reclassify under the MGCRB process by achieving RRC status. We decided to reconsider our application of section 4202(b) of Public Law 105-33, which states, in part, "Any hospital classified as a rural referral center by the Secretary * * * for FY 1991 shall be classified as such a rural referral center for fiscal year 1998 and each subsequent fiscal year." In the August 29, 1997 final rule with comment period, we reinstated RRC status for all hospitals that lost the status due to triennial review or MGCRB reclassification, but not to hospitals that lost RRC status because they were now urban for all purposes because of the OMB designation of their geographic area as urban (62 FR 45999). Our rationale at that time for not reinstating RRC status for these hospitals was that a hospital had to be rural in order to qualify for reinstatement as an RRC, and these hospitals were no longer located in rural areas.

We are aware of several specific hospitals that were RRCs for FY 1991, but subsequently lost their status when

the county in which they were located became urban, and have expressed their wish to be redesignated as an RRC in order to be eligible to reclassify. We believe that the language in the Conference Report accompanying Public Law 106-113 was intended to address these hospitals; that is, we believe that the intent underlying this language (a description of the House bill) was to allow certain urban hospitals to become RRCs (upon reclassifying from urban to rural under section 1886(d)(8)(E) of the Act) and then reclassify under the MGCRB process (as RRCs, the hospitals would be exempt from the MGCRB's proximity requirements). Accordingly, in light of section 1886(d)(8)(E) of the Act and the language in the Conference Report, we have decided to revisit our policy decision on section 4202(b) of Public Law 105-33. Effective as of October 1, 2000, hospitals located in what is now an urban area, if they were ever an RRC, will be reinstated to RRC status under section 4202(b) of Public Law 105-33. (In the August 27, 1997 final rule, we indicated that we recognized there were hospitals that qualified for RRC status after 1991 that lost their status in a subsequent year due to MGCRB reclassification. Therefore, we determined that we would permit any hospital that qualified as an RRC at any point that had lost its RRC status as a result of MGCRB reclassification to be reinstated, regardless of whether it was designated an RRC in 1991. Similarly, for purposes of this policy, we will permit hospitals that previously qualified as an RRC and that lost their status due to OMB redesignation of the county in which they are located from rural to urban to be reinstated as an RRC.) Such hospitals would benefit from the waiver of the MGCRB's proximity requirements, as long as they are designated as RRCs at the time the MGCRB acts on their application.

We are not permitting hospitals redesignated as rural under section 1886(d)(8)(E) of the Act to be eligible for subsequent reclassification by the MGCRB, and are revising the regulations governing MGCRB reclassifications (§ 412.230) accordingly.

Comment: Several commenters suggested alternative policy options regarding the interaction of the distinct reclassification provisions found under sections 1886(d)(8)(E) and 1886(d)(10) of the Act. First, it was recommended that HCFA formulate a policy that would allow urban hospitals reclassifying to rural under section 1886(d)(8)(E) of the Act the same access to urban reclassification under the MGCRB process that the law makes

available to geographically rural hospitals. One commenter posits two possible limitations on MGCRB reclassifications for these now-rural hospitals. One possibility is that an urban hospital that reclassifies to rural under section 1886(d)(8)(E) of the Act be permitted to reclassify only to another MSA, but be precluded from reclassifying back to the MSA in which it is situated. Second, the commenter suggested that reclassifications under the MGCRB process be restricted solely to the wage index for formerly urban hospitals that have elected to reclassify to rural under section 1886(d)(8)(E) of the Act.

Response: Although the alternatives suggested by the commenters would limit to some degree the possible inappropriate incentives for hospitals to become rural under section 1886(d)(8)(E) of the Act, we are concerned that they would still allow these hospitals to receive inappropriate payments, albeit on a more limited basis. Therefore, we have not selected these alternative approaches.

Comment: One health system argued that preventing an urban hospital that has reclassified to rural under section 1886(d)(8)(E) of the Act from reclassifying through restricting the MGCRB process would reduce the number of hospitals reclassifying as rural under section 1886(d)(8)(E) of the Act. The commenter further noted that even if we permitted an urban hospital that reclassified to a rural area under section 1886(d)(8)(E) of the Act to reclassify through the MGCRB process, the hospital would suffer financial losses during the period between when it was rural for all payment purposes and its reclassification back to urban.

Response: We wish to emphasize that urban to rural reclassification under section 1886(d)(8)(E) of the Act is entirely voluntary. Each hospital anticipating that it may qualify under this provision should determine the impact of Medicare payment policies if it were to reclassify. As discussed above, we believe that our policies here are consistent with the Secretary's broad authority under section 1886(d)(10) of the Act, the statutory language in section 1886(d)(8)(E) of the Act, as well as our understanding of the intent underlying the description of the House bill in the Conference Report.

2. Revised Thresholds Applicable to Rural Hospitals for Wage Index Reclassifications

Existing §§ 412.230(e)(1)(iii) and (e)(1)(iv) provide that hospitals may obtain reclassification to another area for purposes of calculating and applying

the wage index if the hospital's average hourly wages are at least 108 percent of the average hourly wages in the area where it is physically located, and at least 84 percent of the average hourly wages in a proximate area to which the hospital seeks reclassification. These thresholds apply equally to urban and rural hospitals seeking reclassification.

Historically, the financial performance of rural hospitals under the prospective payment system has lagged behind that of urban hospitals. Despite an overall increase in recent years of Medicare inpatient operating profit margins, some rural hospitals continue to struggle financially (as measured by Medicare inpatient operating prospective payment system payments minus costs, divided by payments). For example, during FY 1997, while the national average hospital margin was 15.1 percent, it was 8.9 percent for rural hospitals. In addition, approximately one-third of rural hospitals continue to experience negative Medicare inpatient margins despite this relatively high average margin.

In response to the lower margins of rural hospitals and the potential for a negative impact on beneficiaries' access to care if these hospitals were to close, we considered potential administrative changes that could help improve payments for rural hospitals. One approach in that regard would be to make it easier for rural hospitals to reclassify for purposes of receiving a higher wage index. The current thresholds for applying for wage index reclassification are based on our previous analysis showing the average hospital wage as a percentage of its area wage was 96 percent, and one standard deviation from that average was equal to 12 percentage points (see the June 4, 1992 proposed rule (57 FR 23635) and the September 1, 1992 final rule (57 FR 39770)). Because rural hospitals' financial performance has consistently remained below that of urban hospitals, we now believe that rural hospitals merit special dispensation with respect to qualifying for reclassification for purposes of the wage index. Therefore, we proposed to change those average wage threshold percentages so more rural hospitals can be reclassified. Specifically, we proposed to lower the upper threshold for rural hospitals to 106 percent and the lower threshold to 82 percent. The thresholds for urban hospitals seeking reclassification for purposes of the wage index would be unchanged. We note that rural hospitals comprised nearly 90 percent of FY 2000 wage index reclassifications. Under the proposal, beginning October 1, 2000, rural hospitals would be able to

reclassify for the wage index if, among other things, their average hourly wages are at least 106 percent of the area in which they are physically located, and at least 82 percent of the average hourly wages in the proximate area to which it seeks reclassification.

Although it is difficult to estimate precisely how many additional hospitals might qualify by lowering the thresholds because we do not have data indicating which hospitals meet all of the other reclassification criteria (e.g., proximity), our analysis indicated that, if we were to raise the 108 percent threshold to 109 percent, approximately 20 rural hospitals would no longer qualify. If the upper threshold were to be raised to 110 percent, another 16 hospitals would not qualify. On the other hand, increasing the lower threshold from 84 percent to 85 percent would result in only 2 rural hospitals becoming ineligible to reclassify. Only 1 additional hospital would be affected by raising the threshold to 86 percent. Based on this analysis, we anticipated approximately 50 rural hospitals are likely to benefit from the proposed change.

We believe this proposal, as adopted, achieves an appropriate balance between allowing certain hospitals that are currently just below the thresholds to become eligible for reclassification, while not liberalizing the criteria so much that an excessive number of hospitals begin to reclassify. Because these reclassifications are budget neutral, nonreclassified hospitals' payments are negatively impacted by reclassification.

We believe there are many factors associated with lower margins among rural hospitals. We note that section 410 of Public Law 106-113 requires the Comptroller General of the United States to "conduct a study of the current laws and regulations for geographic reclassification of hospitals to determine whether such reclassification is appropriate for purposes of applying wage indices." In addition, section 411 of Public Law 106-113 requires MedPAC to conduct a study on the adequacy and appropriateness of the special payment categories and methodologies established for rural hospitals. We anticipate that the results of these studies will help identify other areas to help improve payments for rural hospitals, either through reclassifications or other means.

Comment: Commenters were unclear about the effective date for the change in wage index thresholds for rural hospitals applying for reclassification.

Response: The revised thresholds apply to applications submitted to the

MGCRB (by September 1, 2000) for reclassification for FY 2002. These revised guidelines do not apply to decisions that have already been issued by the MGCRB for FY 2001.

G. Payment for Direct Costs of Graduate Medical Education (§ 413.86)

1. Background

Under section 1886(h) of the Act, Medicare pays hospitals for the direct costs of graduate medical education (GME). The payments are based on the number of residents trained by the hospital. Section 1886(h) of the Act, as amended by section 4623 of Public Law 105-33, caps the number of residents that hospitals may count for direct GME.

Section 9202 of the Consolidated Omnibus Reconciliation Act (COBRA) of 1985 (Pub. L. 99-272) established a methodology for determining payments to hospitals for the costs of approved GME programs at section 1886(h)(2) of the Act. Section 1886(h)(2) of the Act, as implemented in regulations at § 413.86(e), sets forth a payment methodology for the determination of a hospital-specific, base-period per resident amount (PRA) that is calculated by dividing a hospital's allowable costs of GME for a base period by its number of residents in the base period. The base period is, for most hospitals, the hospital's cost reporting period beginning in FY 1984 (that is, the period of October 1, 1983 through September 30, 1984). The PRA is multiplied by the number of full-time equivalent (FTE) residents working in all areas of the hospital complex (or non-hospital sites, when applicable), and the hospital's Medicare share of total inpatient days to determine Medicare's direct GME payments. In addition, as specified in section 1886(h)(2)(D)(ii) of the Act, for cost reporting periods beginning on or after October 1, 1993, through September 30, 1995, each hospital's PRA for the previous cost reporting period is not adjusted for any FTE residents who are not either a primary care or an obstetrics and gynecology resident. As a result, hospitals with both primary care/obstetrics and gynecology residents and non-primary care residents have two separate PRAs for FY 1994 and, thereafter, one for primary care and one for non-primary care. (Thus, for purposes of this proposed rule, when we refer to a hospital's PRA, this amount is inclusive of any CPI-U adjustments the hospital may have received since the hospital's base-year, including any CPI-U adjustments the hospital may have received because the hospital trains primary care/non-

primary care residents, as specified under existing § 413.86(e)(3)(ii).

2. Use of National Average Per Resident Amount Methodology in Computing Direct GME Payments

Section 311 of Public Law 106–113 amended section 1886(h)(2) of the Act to establish a methodology for the use of a national average PRA in computing direct GME payments for cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005. Generally, section 311 establishes a “floor” and a “ceiling” based on a locality-adjusted, updated, weighted average PRA. Each hospital’s PRA is compared to the floor and ceiling to determine whether its PRA should be revised. Accordingly, in the May 5, 2000 proposed rule, we proposed to implement section 311 by setting forth the prescribed methodology for calculation of the weighted average PRA. We then discussed the proposed steps for determining whether a hospital’s PRA will be adjusted based upon the proposed calculated weighted average PRA, in accordance with the methodology specified under section 311 of Public Law 106–113.

We proposed to calculate the weighted average PRA based upon data from hospitals’ cost reporting periods ending during FY 1997 (October 1, 1996 through September 30, 1997), as directed by section 311 of Public Law 106–113. We accessed these FY 1997 cost reporting data from the Hospital Cost Report Information System (HCRIS) and also obtained the necessary data for those hospitals that are not included in HCRIS (because they file manual cost reports), from those hospitals’ fiscal intermediaries. If a hospital had more than one cost reporting period ending in FY 1997, we proposed to include all of its cost reports ending in FY 1997 in our calculations. However, if a hospital did not have a cost reporting period ending in FY 1997, such as a hospital with a long cost reporting period beginning in FY 1996 and ending in FY 1998, the hospital is excluded from our calculations.

We have slightly revised the weighted average PRA in this final rule because of changes in the data that have come to our attention since the publication of the proposed rule. In the proposed rule, one hospital was excluded from our calculations because it was a new teaching hospital with no established PRA (the first year of training for a new teaching hospital is paid for by Medicare on a cost basis; a PRA is applied in calculating a hospital’s payment beginning with the hospital’s second year of residency training) even

though it did have a cost reporting period ending during FY 1997. In the weighted average calculation in this final rule, we have excluded one more hospital because we learned that this hospital was also a new teaching hospital in FY 1997 with no established PRA. We also have added one hospital to the weighted average calculation because it was inadvertently excluded in the calculation in the proposed rule. In addition, we found that the data of two hospitals that were used in the weighted average calculation in the proposed rule were incorrect, and we have made the corrections for the weighted average calculation in this final rule. The total number of hospitals that we include in our calculation is unchanged from the proposed rule and remains at 1,235. Thirty-five of these hospitals are hospitals with more than one cost report.

In accordance with section 311 of Public Law 106–113, we proposed to calculate the weighted average PRA in the following manner:

Step 1: We determine each hospital’s single PRA by adding each hospital’s primary care and non-primary care PRAs, weighted by its respective FTEs, and dividing by the sum of the FTEs for primary care and non-primary care residents.

Step 2: We standardize each hospital’s single PRA by dividing it by the 1999 geographic adjustment factor (GAF) (which is an average of the three geographic index values (weighted by the national average weight for the work component, practice expense component, and malpractice component) in accordance with section 1848(e) of the Act and 42 CFR 414.26 (which is used to adjust physician payments for the different wage areas), for the physician fee schedule area in which the hospital is located.

Step 3: We add all the standardized hospital PRAs (as calculated in Step 2), each weighted by hospitals’ respective FTEs, and then divide by the total number of FTEs.

Based upon this three-step calculation, we determined the weighted average PRA (for cost reporting periods ending during FY 1997) to be \$68,464. (The weighted average PRA calculated for the proposed rule was \$68,487.)

For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005 (FY 2001 through FY 2005), the national average PRA is applied using the following three steps:

Step 1: Update the weighted average PRA for inflation. Under section 1886(h)(2) of the Act, as amended by

section 311 of Public Law 106–113, the weighted average PRA is updated by the estimated percentage increase in the consumer price index for all urban consumers (CPI-U) during the period beginning with the month that represents the midpoint of the cost reporting periods ending during FY 1997 and ending with the midpoint of the hospital’s cost reporting period that begins in FY 2001. Therefore, the weighted average standardized PRA (\$68,464) would be updated by the increase in CPI-U for the period beginning with the midpoint of all cost reporting periods for hospitals with cost reporting periods ending during FY 1997 (October 1, 1996), and ending with the midpoint of the individual hospital’s cost reporting period that begins during FY 2001.

For example, Hospital A has a calendar year cost reporting period. Thus, for Hospital A, the weighted average PRA is updated from October 1, 1996 to July 1, 2001, because July 1 is the midpoint of its cost reporting period beginning on or after October 1, 2000. Or, for example, if Hospital B has a cost reporting period starting October 1, the weighted average PRA is updated from October 1, 1996 to April 1, 2001, the midpoint of the cost reporting period for Hospital B. Therefore, the starting point for updating the weighted average PRA is the same date for all hospitals (October 1, 1996), but the ending date is different because it is dependent upon the cost reporting period for each hospital.

Step 2: Adjust for locality. In accordance with section 1886(h)(2) of the Act, as amended by section 311 of Public Law 106–113, once the weighted average PRA is updated according to each hospital’s cost reporting period, the updated weighted average PRA (the national average PRA) is further adjusted to calculate a locality-adjusted national average PRA for each hospital. This is done by multiplying the updated national average PRA by the 1999 GAF (as specified in the October 31, 1997 **Federal Register** (62 FR 59257)) for the fee schedule area in which the hospital is located.

Step 3: Determine possible revisions to the PRA. For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005, the locality-adjusted national average PRA, as calculated in Step 2, is then compared to the hospital’s individual PRA. Based upon the provisions of section 1886(h)(2) of the Act, as amended by section 311 of Public Law 106–113, a hospital’s PRA is revised, if appropriate, according to the following:

• *Floor*—For cost reporting periods beginning in FY 2001, to determine which PRAs (primary care and non-primary care separately) are below the 70 percent floor, a hospital's locality-adjusted national average PRA is multiplied by 70 percent. This resulting number is then compared to the hospital's PRA that is updated for inflation to the current cost reporting period. If the hospital's PRA would be less than 70 percent of the locality-adjusted national average PRA, the individual PRA is replaced by 70 percent of the locality-adjusted national average PRA for that cost reporting period and would be updated for inflation in future years by the CPI-U.

We noted that there may be some hospitals with primary care and non-primary care PRAs where both PRAs are replaced by 70 percent of the locality-adjusted national average PRA. In these situations, the hospital would receive identical PRAs; no distinction in PRAs would be made for differences in inflation (because a hospital has both primary care and non-primary care PRAs, each of which is updated as described in § 413.86(e)(3)(ii)) as of cost reporting periods beginning on or after October 1, 2000.

For example, if the FY 2001 locality-adjusted national average PRA for Area X is \$100,000, then 70 percent of that amount is \$70,000. If, in Area X, Hospital A has a primary care FY 2001 PRA of \$69,000 and a non-primary care FY 2001 PRA of \$67,000, both of Hospital A's FY 2001 PRAs are replaced by the \$70,000 floor. Thus, \$70,000 is the amount that would be used to determine Hospital A's direct GME payments for both primary care and non-primary care FTEs in its cost reporting period beginning in FY 2001, and the \$70,000 PRA would be updated for inflation by the CPI-U in subsequent years.

• *Ceiling*—For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005 (FY 2001 through FY 2005), a ceiling that is equal to 140 percent of each locality-adjusted national average PRA is calculated and compared to each individual hospital's PRA. If the hospital's PRA is greater than 140 percent of the locality-adjusted national average PRA, the PRA would be adjusted depending on the fiscal year as follows:

a. FY 2001. For cost reporting periods beginning in FY 2001, each hospital's PRA from the preceding cost reporting period (that is, the PRA with which its direct GME payments were made in FY 2000) is compared to the FY 2001 locality-adjusted national average PRA.

If the individual hospital's FY 2000 PRA exceeds 140 percent of the FY 2001 locality-adjusted national average PRA, the PRA is frozen at the FY 2000 PRA, and is not updated in FY 2001 by the CPI-U factor, subject to the limitation in section IV.G.2.d. of this preamble.

For example, if the FY 2001 locality-adjusted national average PRA "ceiling" for Area Y is \$140,000 (that is, 140 percent of \$100,000, the hypothetical locality-adjusted national average PRA), and if, in this area, Hospital B has a FY 2000 PRA of \$140,001, then for FY 2001, Hospital B's PRA is frozen at \$140,001 and is not updated by the CPI-U for FY 2001.

b. FY 2002. For cost reporting periods beginning in FY 2002, the methodology used to calculate each hospital's individual PRA would be the same as described in section IV.G.2.a. above for FY 2001. Each hospital's PRA from the preceding cost reporting period (that is, the PRA with which its direct GME payments were made in FY 2001) is compared to the FY 2002 locality-adjusted national average PRA. If the individual hospital's FY 2001 PRA exceeds 140 percent of the FY 2002 locality-adjusted national average PRA, the PRA is frozen at the FY 2001 PRA, and is not updated in FY 2002 by the CPI-U factor, subject to the limitation in section IV.G.2.d. of this preamble.

c. FY 2003, FY 2004, and FY 2005. For cost reporting periods beginning in FY 2003, FY 2004, and FY 2005, if the hospital's PRA for the previous cost reporting period is greater than 140 percent of the locality-adjusted national average PRA for that same previous cost reporting period (for example, for the cost reporting period beginning in FY 2003, compare the hospital's PRA from the FY 2002 cost reporting period to the locality-adjusted national average PRA from FY 2002), then, subject to the limitation in section IV.G.2.d. of this preamble, the hospital's PRA is updated in accordance with section 1886(h)(2)(D)(i) of the Act, except that the CPI-U applied is reduced (but not below zero) by 2 percentage points.

For example, for purposes of Hospital A's FY 2003 cost report, Hospital A's PRA for FY 2002 is compared to Hospital A's locality-adjusted national average PRA ceiling for FY 2002. If, in FY 2002, Hospital A's PRA is \$100,001 and the FY 2002 locality-adjusted national average PRA ceiling is \$100,000, then for FY 2003, Hospital A's PRA is updated with the FY 2003 CPI-U minus 2 percent. If, in this scenario, the CPI-U for FY 2003 is 1.024, Hospital A would update its PRA in FY 2003 by 1.004 (the CPI-U minus 2 percentage points). However, if the CPI-U factor for

FY 2003 is 1.01 and subtracting 2 percentage points of 1.01 yields 0.99, the PRA for FY 2003 would not be updated, and would remain \$100,001.

We note that, while the language in section 1886(h)(2)(D)(iv)(I) and in section 1886(h)(2)(D)(iv)(II) of the Act (the sections that describe the adjustments to PRAs for hospitals that exceed 140 percent of the locality-adjusted national average PRA) is very similar, the language does differ. Section 1886(h)(2)(D)(iv)(I) of the Act states that for a cost reporting period beginning during FY 2000 or FY 2001, "if the approved FTE resident amount for a hospital for the preceding cost reporting period exceeds 140 percent of the locality-adjusted national average per resident amount * * * for that hospital and period * * *, the approved FTE resident amount for the period involved shall be the same as the approved FTE resident amount for such preceding cost reporting period." (Emphasis added.) Section 1886(h)(2)(D)(iv)(II) of the Act states that for a cost reporting period beginning during FY 2003, FY 2004, or FY 2005, "if the approved FTE resident amount for a hospital for the preceding cost reporting period exceeds 140 percent of the locality-adjusted national average per resident amount * * * for that hospital and preceding period, the approved FTE resident amount for the period involved shall be updated * * *." (Emphasis added.) Accordingly, for FYs 2001 and 2002, a hospital's PRA from the previous cost reporting period is compared to the locality-adjusted national average PRA of the current cost reporting period. For FY 2003, FY 2004, or FY 2005, a hospital's PRA from the previous cost reporting period is compared to the locality-adjusted national average PRA from the previous cost reporting period.

d. General rule for hospitals that exceed the ceiling. For cost reporting periods beginning in FY 2001 through FY 2005, if a hospital's PRA exceeds 140 percent of the locality-adjusted national average PRA and it is adjusted under any of the above criteria, the current year PRA cannot be reduced below 140 percent of the locality-adjusted national average PRA.

For example, to determine the PRA of Hospital A, in FY 2003, Hospital A had a FY 2002 PRA of \$100,001 and the FY 2002 locality-adjusted national average PRA ceiling is \$100,000. For FY 2003, applying an update of the CPI-U factor minus 2 percentage points (for example, $1.024 - .02 = 1.004$) would yield an updated PRA of \$100,401 while the locality-adjusted national average PRA (before calculation of the ceiling) is

updated for FY 2003 with the full CPI-U factor (1.024) so that the ceiling of \$100,000 is now increased to \$102,400 (that is, $\$100,000 \times 1.024 = \$102,400$). Therefore, applying the adjustment would result in a PRA of \$100,401, which is under the ceiling of \$102,400 for FY 2003. In this situation, for purposes of the FY 2003 cost report, Hospital A's PRA equals \$102,400.

We note that if the hospital's PRA does not exceed 140 percent of the locality-adjusted national average PRA, the PRA is updated by the CPI-U for the respective fiscal year. If a hospital's PRA is updated by the CPI-U because it is less than 140 percent of the locality-adjusted national average PRA for a respective fiscal year, and once updated, the PRA exceeds the 140 percent ceiling for the respective fiscal year, the updated PRA would still be used to calculate the hospital's direct GME payments. Whether a hospital's PRA exceeds the ceiling is determined before the application of the update factors; if a hospital's PRA exceeds the ceiling only because of the application of the update factors, the hospital's PRA would retain the CPI-U factors.

For example, if, in FY 2001, the locality-adjusted national average PRA ceiling for Area Y is \$140,000, and if, in this area, Hospital B has a FY 2000 PRA of \$139,000, then for FY 2001, Hospital B's PRA is updated for inflation for FY 2001 because the PRA is below the ceiling. However, once the update factors are applied, Hospital B's PRA is now \$142,000 (that is, above the \$140,000 ceiling). In this scenario, Hospital B's inflated PRA would be used to calculate its direct GME payments because Hospital B has only exceeded the ceiling after the application of the inflation factors.

- *PRAs greater than or equal to the floor and less than or equal to the ceiling.* For cost reporting periods beginning in FY 2001 through FY 2005, if a hospital's PRA is greater than or equal to 70 percent and less than or equal to 140 percent of the locality-adjusted national average PRA, the hospital's PRA is updated using the existing methodology specified in § 413.86(e)(3)(i).

For cost reporting periods beginning in FY 2006 and thereafter, a hospital's PRA for its preceding cost reporting period would be updated using the existing methodology specified in § 413.86(e)(3)(i).

We proposed to redesignate the existing § 413.86(e)(4) as § 413.86(e)(5) and add the rules implementing section 1886(h)(2) of the Act, as amended by section 311 of Public Law 106-113, in the vacated § 413.86(e)(4). Because we

proposed to apply the methodology for updating the PRA for inflation that is described in existing § 413.86(e)(3), we also proposed to amend § 413.86(e)(3) to make those rules applicable to the cost reporting periods (FY 2001 through FY 2005) specified in the proposed § 413.86(e)(4), and in subsequent cost reporting periods.

In addition, we proposed to make a conforming change by amending proposed redesignated § 413.86(e)(5) to account for situations in which hospitals do not have a 1984 base period and establish a PRA in a cost reporting period beginning on or after October 1, 2000. We believe there are two factors to consider when a new teaching hospital establishes its PRA under proposed redesignated § 413.86(e)(5). First, for example, when calculating the weighted mean value of PRAs of hospitals located in the same geographic area or the weighted mean of the PRAs in the hospital's census region (as specified in § 412.62(f)(1)(i)), the hospitals' PRAs used to calculate the weighted mean values are subject to the provisions of proposed § 413.86(e)(4), the national average PRA methodology. Second, the resulting PRA established under proposed redesignated § 413.86(e)(5) also would be subject to the national average PRA methodology specified in proposed § 413.86(e)(4).

We also proposed to make a clarifying amendment to the proposed redesignated § 413.86(e)(5)(i)(B) to account for an oversight in the regulations text when we amended our regulations on August 29, 1997 (62 FR 46004). In the preamble of the August 29, 1997 final rule, in setting forth our policy on the determination of per resident amounts for hospitals that did not have residents in the 1984 GME base period, we stated that we would use a "weighted" average of the per resident amounts for hospitals located in the same geographic area. However, we inadvertently did not include a specific reference to "weighted" in the language of the regulation text. Therefore, we are proposing to specify that the "weighted mean value" of per resident amounts of hospitals located in the same geographic wage area is used for determining the base period for certain hospitals for cost reporting periods beginning in the same fiscal years.

We received two public comments on the GME provisions included in the proposed rule.

Comment: One commenter supported the implementation of section 311 of Public Law 106-113. Another commenter suggested that there is ambiguity in our volunteer physician policy regarding the rotation of

residents to nonhospital sites. The commenter requested that we explicitly state that, so long as the other criteria under the nonhospital policy are met, hospitals may receive direct GME payments for residents training in nonhospital sites when the hospitals do not incur supervisory costs, if the written agreement, which is signed by both the hospital and nonhospital site, indicates that the supervisory physician has agreed to volunteer his or her time in supervising activities.

Response: We did not propose to make any revisions to our policy regarding training residents in nonhospital sites. Any changes in policy regarding an adjustment for training at nonhospital sites would need to go through the notice and comment procedures. We will consider the merits of the commenter's recommendation for a change in policy for a future proposed rulemaking.

H. Outliers: Miscellaneous Change

Under the provisions of section 1886(d)(5)(A)(i) of the Act, the Secretary does not pay for day outliers for discharges from hospitals paid under the prospective payment systems that occur after September 30, 1997. In the May 5 proposed rule, we proposed to make a conforming change to § 412.2(a) by deleting the reference to an additional payment for both inpatient operating and inpatient capital-related costs for cases that have an atypically long length of stay. We did not receive any comments on this proposal and are adopting the change as final.

V. The Prospective Payment System for Capital-Related Costs: The Last Year of the Transition Period

Since FY 2001 is the last year of the 10-year transition period established to phase in the prospective payment system for hospital capital-related costs, for the readers' benefit, we are providing a summary of the statutory basis for the system, the development and evolution of the system, the methodology used to determine capital-related payments to hospitals, and the policy for providing exceptions payments during the transition period.

Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of inpatient hospital services "in accordance with a prospective payment system established by the Secretary." Under the statute, the Secretary has broad authority in establishing and implementing the capital prospective payment system. We initially implemented the capital prospective payment system in the August 30, 1991 final rule (56 FR 43409), in which we

established a 10-year transition period to change the payment methodology for Medicare inpatient capital-related costs from a reasonable cost-based methodology to a prospective methodology (based fully on the Federal rate).

The 10-year transition period established to phase in the prospective payment system for capital-related costs is effective for discharges occurring on or after October 1, 1991 (FY 1992) through discharges occurring on or before September 30, 2001. For FY 2001, hospitals paid under the fully prospective transition period methodology will be paid 100 percent of the Federal rate and zero percent of their hospital-specific rate, while hospitals paid under the hold-harmless transition period methodology will be paid 85 percent of their allowable old capital costs (100 percent for sole community hospitals) plus a payment for new capital costs based on the Federal rate. Fiscal year 2001 is the final year of the capital transition period and, therefore, the last fiscal year for which a portion of a hold-harmless hospital's capital costs per discharge will be paid on a cost basis (except for new hospitals). In the proposed rule, we stated that since fully prospective hospitals will be paid based on 100 percent of the Federal rate and zero percent of their hospital-specific rate, we did not determine a proposed hospital-specific rate update for FY 2001 in section IV of the Addendum of the proposed rule. However, it has come to our attention that an update to the hospital-specific rate is necessary on October 1, 2000, for hospitals with cost reporting periods that do not coincide with the Federal fiscal year. Therefore, the hospital-specific rate update for FY 2001 is shown in section IV of the Addendum of this final rule. For cost reporting periods beginning on or after October 1, 2001 (FY 2002), payment for capital-related costs will be determined based solely on the capital standard Federal rate. Hospitals that were defined as "new" for the purposes of capital payments during the transition period (§ 412.30(b)) will continue to be paid according to the applicable payment methodology outlined in § 412.324.

Generally, during the transition period, inpatient capital-related costs are paid on a per discharge basis, and the amount of payment depends on the relationship between the hospital-specific rate and the Federal rate during the hospital's base year. A hospital with a base year hospital-specific rate lower than the Federal rate is paid under the fully prospective payment methodology during the transition period. This

method is based on a dynamic blend percentage of the hospital's hospital-specific rate and the applicable Federal rate for each year during the transition period. A hospital with a base period hospital-specific rate greater than the Federal rate is paid under the hold-harmless payment methodology during the transition period. A hospital paid under the hold-harmless payment methodology receives the higher of (1) a blended payment of 85 percent of reasonable cost for old capital plus an amount for new capital based on a portion of the Federal rate or (2) a payment based on 100 percent of the adjusted Federal rate. The amount recognized as old capital is generally limited to the allowable Medicare capital-related costs that were in use for patient care as of December 31, 1990. Under limited circumstances, capital-related costs for assets obligated as of December 31, 1990, but put in use for patient care after December 31, 1990, also may be recognized as old capital if certain conditions are met. These costs are known as obligated capital costs. New capital costs are generally defined as allowable Medicare capital-related costs for assets put in use for patient care after December 31, 1990. Beginning in FY 2001, at the conclusion of the transition period for the capital prospective payment system, capital payments will be based solely on the Federal rate for the vast majority of hospitals.

During the transition period, new hospitals are exempt from the prospective payment system for capital-related costs for their first 2 years of operation and are paid 85 percent of their reasonable cost during that period. The hospital's first 12-month cost reporting period (or combination of cost reporting periods covering at least 12 months) beginning at least 1 year after the hospital accepts its first patient serves as the hospital's base period. Those base year costs qualify as old capital and are used to establish its hospital-specific rate used to determine its payment methodology under the capital prospective payment system. Effective with the third year of operation, the hospital is paid under either the fully prospective methodology or the hold-harmless methodology. If the fully prospective methodology is applicable, the hospital is paid using the appropriate transition blend of its hospital-specific rate and the Federal rate for that fiscal year until the conclusion of the transition period, at which time the hospital will be paid based on 100 percent of the Federal rate. If the hold-harmless methodology is

applicable, the hospital will receive hold-harmless payment for assets in use during the base period for 8 years, which may extend beyond the transition period.

The basic methodology for determining capital prospective payments based on the Federal rate is set forth in § 412.312. For the purpose of calculating payments for each discharge, the standard Federal rate is adjusted as follows:

$$\begin{aligned} & (\text{Standard Federal Rate}) \times (\text{DRG Weight}) \\ & \quad \times (\text{GAF}) \times (\text{Large Urban Add-on, if} \\ & \quad \text{applicable}) \times \\ & (\text{COLA Adjustment for Hospitals} \\ & \quad \text{Located in Alaska and Hawaii}) \times (1 \\ & \quad + \text{DSH Adjustment Factor} + \text{IME} \\ & \quad \text{Adjustment Factor}). \end{aligned}$$

Hospitals may also receive outlier payments for those cases that qualify under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments.

During the capital prospective payment system transition period, a hospital may also receive an additional payment under an exceptions process if its total inpatient capital-related payments are less than a minimum percentage of its allowable Medicare inpatient capital-related costs for qualifying classes of hospitals. For up to 10 years after the conclusion of the transition period, a hospital may also receive an additional payment under a special exceptions process if certain qualifying criteria are met and its total inpatient capital-related payments are less than the 70 percent minimum percentage of its allowable Medicare inpatient capital-related costs.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, under amendments to the Act enacted by section 4406 of Public Law 105-33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the

operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the Federal rate.

Section 412.374 provides for the use of this blended payment system for payments to Puerto Rico hospitals under the prospective payment system for inpatient capital-related costs.

Accordingly, for capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital-related costs.

In the August 30, 1991 final rule, we established a capital exceptions policy, which provides for exceptions payments during the transition period (§ 412.348). Section 412.348 provides that, during the transition period, a hospital may receive additional payment under an exceptions process when its regular payments are less than a minimum percentage, established by class of hospital, of the hospital's reasonable capital-related costs. The amount of the exceptions payment is the difference between the hospital's minimum payment level and the payments the hospital would receive under the capital prospective payment system in the absence of an exceptions payment. The comparison is made on a cumulative basis for all cost reporting periods during which the hospital is subject to the capital prospective payment transition rules. The minimum payment percentages for regular capital exceptions payments by class of hospitals for FY 2001 are:

- For sole community hospitals, 90 percent;
- For urban hospitals with at least 100 beds that have a disproportionate share patient percentage of at least 20.2 percent or that received more than 30 percent of their net inpatient care revenues from State or local governments for indigent care, 80 percent;
- For all other hospitals, 70 percent of the hospital's reasonable inpatient capital-related costs.

The provision for regular exceptions payments will expire at the end of the transition period. Payments will no longer be adjusted to reflect regular exceptions payments at § 412.348. Accordingly, for cost reporting periods beginning on or after October 1, 2001, hospitals will receive only the per discharge payment based on the Federal rate for capital costs (plus any applicable DSH or IME and outlier adjustments) unless a hospital qualifies

for a special exceptions payment under § 412.348(g).

Under the special exceptions provision at § 412.348(g), an additional payment may be made for up to 10 years beyond the end of the capital prospective payment system transition period for eligible hospitals. The capital special exceptions process is budget neutral; that is, even after the end of the capital prospective payment system transition, we will continue to make an adjustment to the capital Federal rate in a budget neutral manner to pay for exceptions, as long as an exceptions policy is in force. Currently, the limited special exceptions policy will allow for exceptions payments for 10 years beyond the conclusion of the 10-year capital transition period or through September 30, 2011.

VI. Changes for Hospitals and Hospital Units Excluded From the Prospective Payment System

A. Limits on and Adjustments to the Target Amounts for Excluded Hospitals and Units (§§ 413.40(b)(4) and (g))

1. Updated Caps

Section 1886(b)(3) of the Act (as amended by section 4414 of Public Law 105–33) establishes caps on the target amounts for certain existing excluded hospitals and units for cost reporting periods beginning on or after October 1, 1997 through September 30, 2002. The caps on the target amounts apply to the following three classes of excluded hospitals: Psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals.

A discussion of how the caps on the target amounts were calculated can be found in the August 29, 1997 final rule with comment period (62 FR 46018); the May 12, 1998 final rule (63 FR 26344); the July 31, 1998 final rule (63 FR 41000), and the July 30, 1999 final rule (64 FR 41529). For purposes of calculating the caps on existing facilities, the statute required us to calculate the national 75th percentile of the target amounts for each class of hospital (psychiatric, rehabilitation, or long-term care) for cost reporting periods ending during FY 1996. Under section 1886(b)(3)(H)(iii) of the Act, the resulting amounts are updated by the market basket percentage to the applicable fiscal year. In establishing the caps on the target amounts within each class of hospital for new hospitals, section 1886(b)(7)(C) of the Act, as amended by section 4416 of Public Law 105–33, explicitly instructed the Secretary to provide an appropriate adjustment to take into account area differences in wage-related costs.

However, since the statutory language under section 4414 of Public Law 105–33 did not provide for the Secretary to account for area differences in wage-related costs in establishing the caps on the target amounts for existing hospitals, HCFA did not account for wage-related differences in establishing the caps on the target amounts for existing facilities in FY 1998.

Section 121 of Public Law 106–113 amended section 1886(b)(3)(H) of the Act to direct the Secretary to provide for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. Elsewhere in this issue of the **Federal Register** we are publishing an interim final rule with comment period implementing this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000. This final rule addresses the wage adjusted caps on the target amounts for excluded hospitals and units for cost reporting periods beginning on or after October 1, 2000.

For purposes of calculating the caps on the target amounts, section 1886(b)(3)(H)(ii) of the Act requires the Secretary to first “estimate the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods ending during fiscal year 1996.” Furthermore, section 1886(b)(3)(H)(iii), as added by Public Law 106–113, requires the Secretary to provide for “an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account the differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital.”

For cost reporting periods beginning in FY 2000, we update the FY 1996 wage-neutralized national 75th percentile target amount for each class of hospital by the market basket increase through FY 2000. For cost reporting periods beginning during FY 2001 and FY 2002, we update the previous year's wage-neutralized national 75th percentile target amount for each class of hospital by the applicable market basket percentage increase. In determining the wage-neutralized 75th percentile target amount for each class of hospital and consistent with the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act (as added by Pub. L. 106–113) to determine the appropriate wage

adjustment, we accounted for differences in wage-related costs by adjusting the caps on the target amounts for each class of hospital (psychiatric, rehabilitation, and long-term care) using the methodology, which is described in detail in the interim final rule with comment period that implements the provisions of section 121 Public Law 106-113 that is published elsewhere in this issue of the **Federal Register**.

As stated in the May 5, 2000 proposed rule, we wage neutralized each hospital's FY 1996 target amount to account for area differences in wage-related costs. For each class of hospitals, we determined the labor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the most recent actuarial estimate of the labor-related portion of excluded hospital costs (or 0.71553). This actuarial estimate of the labor-related share of PPS-excluded hospital costs was revised in connection with other revisions to the PPS-excluded hospital market basket published in the August 29, 1997 final rule (62 FR 45996). Based on the relative weights of the labor cost categories (wages and salaries, employee benefits, professional fees, postal services, and all other labor intensive services), the labor-related portion is 71.553 percent. The remaining 28.447 percent is the nonlabor-related portion. Similarly, we determined the nonlabor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the nonlabor-related portion of costs (or 0.28447).

Next, as we stated in the May 5 proposed rule, we wage neutralized each hospital's FY 1996 target amount by dividing the labor-related portion of each hospital's FY 1996 target amount by the hospital's FY 1998 hospital wage index under the hospital inpatient prospective payment system (see § 412.63), as shown in Tables 4A and 4B of the August 29, 1997 final rule (62 FR 46070). Each hospital's wage-neutralized FY 1996 target amount was calculated by adding the nonlabor-related portion of its target amount and the wage-neutralized labor-related portion of its target amount. Then, the wage-neutralized target amounts for hospitals within each class were arrayed in order to determine the national wage-neutralized 75th percentile caps on the target amounts for each class of hospital.

As stated in the May 5 proposed rule, this methodology for wage-neutralizing the national 75th percentile of the target amounts is identical to the methodology we utilized for the wage index adjustment described in the August 29, 1997 final rule (62 FR 46020) to

calculate the wage-adjusted 110 percent of the national median target amounts for new excluded hospitals and units. Again, we recognize that wages may differ for prospective payment hospitals and excluded hospitals, but we believe that the acute care hospital wage data utilized reflect area differences in wage-related costs. Moreover, in light of the short timeframe for implementing this provision, we used the wage data for acute hospitals since they are the most feasible data source. Reliable wage data for excluded hospitals and units are not available.

Comment: One commenter objected to our use of the FY 1998 hospital wage index, which is based on FY 1994 wage data from Medicare cost reports, to wage neutralize the labor-related portion of each hospital's FY 1996 target amount in establishing area wage adjustments to the caps on the target amounts for long-term care hospitals. The commenter favored using the most current wage data (the FY 2001 wage index, based on FY 1997 Medicare cost report data) to estimate wage adjustments to the caps on the target amounts for excluded hospitals and units.

Response: We reconsidered our methodology for wage-neutralizing each hospital's FY 1996 target amount used in determining the wage-neutralized national 75th percentile target amount for each class of hospital. In the May 5, 2000 proposed rule, the labor-related portion of each hospital's FY 1996 target amount was wage neutralized by dividing it by the FY 1998 hospital inpatient prospective payment system wage index. The FY 1998 hospital inpatient prospective payment system wage index was calculated using FY 1994 wage data due to the 4-year lag time in receiving the data used in the annual calculation of the wage index. We have reconsidered this methodology and believe it is appropriate to wage neutralize the labor-related portion of each hospital's FY 1996 target amount by the FY 2000 hospital inpatient prospective payment system wage index. The FY 2000 wage index is the most current wage data available to wage neutralize each hospital's FY 1996 target amount, and the FY 2000 wage index was calculated based on FY 1996 wage data and therefore reflects area differences in wage-related FY 1996 costs. The FY 2001 wage index will be applied to the wage-related portion of the cap to determine each hospital's FY 2001 wage-adjusted cap on its target amount.

In the May 5, 2000 proposed rule (65 FR 26314), we proposed the labor-related and nonlabor-related shares of the wage-neutralized national 75th

percentile caps on the target amounts for FY 2001 as follows:

Class of excluded hospital or unit	FY 2001 proposed labor-related share	FY 2001 proposed nonlabor-related share
Psychiatric	\$8,106	\$3,223
Rehabilitation	15,108	6,007
Long-Term Care	29,312	11,654

Taking into account the national 75th percentile of the target amounts for cost reporting periods ending during FY 1996 (wage-neutralized using the FY 2000 acute care wage index), the wage adjustment provided for under Public Law 106-113, and the applicable update factor based on the market basket percentage increase to FY 2001, we are establishing the labor-related and nonlabor-related portions of the caps on the target amounts for FY 2001 using the methodology outlined above as follows:.

Class of excluded hospital or unit	FY 2001 labor-related share	FY 2001 nonlabor-related share
Psychiatric	\$8,131	\$3,233
Rehabilitation	15,164	6,029
Long-Term Care	29,284	11,642

These caps on the target amounts for FY 2001 reflect the use of the FY 2000 wage index in determining the FY 1996 national wage-neutralized 75th percentile target amounts, updated to FY 2001 by the applicable market basket percentage increase. The market basket percentage increase for excluded hospitals and units for FY 2001 is currently forecast at 3.4 percent. At the time the proposed rule was issued, the market basket increase was forecast at 3.1 percent.

Finally, the cap on a hospital's FY 2001 target amount per discharge is determined by adding the hospital's nonlabor-related portion of the national 75th percentile target amount to its wage-adjusted labor-related portion of the national 75th percentile target amount. A hospital's wage-adjusted labor-related portion of the target amount is calculated by multiplying the labor-related portion of the wage-neutralized national 75th percentile target amount for the hospital's class by the hospital's applicable wage index. For FY 2001, a hospital's applicable wage index is the wage index under the hospital inpatient prospective payment system (see § 412.63). For cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30, 2001 as shown in Tables 4A and 4B of this final rule, a hospital's applicable wage index corresponds to the area in which the hospital or unit is physically

located (MSA or rural area) and is not subject to prospective payment system hospital reclassification under section 1886(d)(10) of the Act.

Comment: One commenter requested that HCFA provide long-term care hospitals the opportunity to redesignate to another rural or urban area under the standards outlined in § 412.230 for prospective payment system hospitals. The commenter believed that section 121 of Public Law 106–113 directs HCFA to make accurate area wage adjustments for excluded hospitals and that, in the interest of equity, HCFA should afford long-term care hospitals a process analogous to the MGCRB so that these providers would be able to redesignate their wage area to a rural or urban area. Additionally, the commenter recommended that long-term care hospitals located in “close proximity” (as defined in § 412.230(b)) to a prospective payment system hospital that has been allowed to reclassify its area wage index, should also be allowed to reclassify to that wage area.

Response: Section 121 of Public Law 106–113 directs the Secretary to make “an appropriate adjustment” to account for area wage-related differences. As we stated in the May 5 proposed rule, long-term care hospitals and psychiatric and rehabilitation hospitals and units which are exempt from the prospective payment system are not subject to prospective payment system hospital reclassification under section 1886(d)(10)(A) of the Act. This section establishes the MGCRB for the purpose of evaluating applications from short-term acute care providers. There is no equivalent statutory provision for HCFA to develop an alternative board for long-term care hospitals or for psychiatric and rehabilitation hospitals and units, or both.

While it would be feasible to allow units physically located in PPS hospitals that have been reclassified by the MGCRB to use the wage-index for the area to which that hospital has been reclassified, at the present time there is no process in place to make reclassification determinations for excluded free-standing providers. The wage-adjustment to the cap on the target amounts for existing excluded providers is only effective through FY 2002 and there is not enough time to develop and implement a process to determine reclassification for free-standing excluded providers. There are approximately 1000 free-standing excluded facilities (529 psychiatric, 196 rehabilitation and 242 long-term care). Therefore, in the interest of equity, we believe that in determining a hospital's

wage-adjusted cap on its target amount, it is appropriate for excluded hospitals and units to use the wage index associated with the area in which it is physically located (MSA or rural area) and prospective payment system reclassification under section 1886(d)(10) of the Act is not applicable. This policy is consistent with the determination of the wage-adjusted caps on the target amounts for new excluded hospitals and units, which are not subject to reclassification when applying the wage index in the calculation of the cap. Additionally, skilled-nursing facility and ambulatory surgical center payment systems both use the acute-care inpatient hospital PPS wage index and do not allow for reclassifications since there is no analogous determination process to the MGCRB, which only has authority over PPS hospitals under section 1886(d)(10)(a) of the Act. Therefore, consistent with these policies regarding the application of the acute care wage index to other types of facilities, we are not implementing the commenter's recommendation to permit reclassification of an excluded hospital's or unit's wage index in determining the wage-adjusted cap on their target amount under § 41340(c)(4)(iii).

Comment: One commenter asserted that this is the first time HCFA has applied area wage adjustments to excluded hospitals and units. The commenter suggested that HCFA assess whether long-term care hospitals have a different mix of occupations compared to short-term acute care facilities and recommended that HCFA propose an appropriate adjustment to the acute care wage index to account for the relative wage-related costs for the occupational categories of long-term care hospitals or establish a long-term care hospital specific area wage index. The commenter noted that the acute care wage index includes some wage data derived from hospital-based psychiatric and rehabilitation units, but contains no data from long-term care hospitals. Also, the commenter argued that HCFA did not meet the statutory requirements of section 1886(b)(3)(H) of the Act as amended by section 121 of Public Law 106–113, which states that the Secretary shall provide for an appropriate adjustment “to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs *within the same class of hospital*” (emphasis added), since the acute care wage index data are based on data

exclusively from short-term acute care hospitals.

Response: As stated in the May 5, 2000 proposed rule (65 FR 26314), we recognize that wages may differ for prospective payment system acute care hospitals and excluded hospitals, but we believe the acute care wage index data accurately reflects area differences in wage-related costs and they are the most feasible data source. For this reason the acute care hospital wage index is used for the Medicare prospective payment systems for outpatient facilities, skilled nursing facilities, and home health facilities.

Currently, there is hospital specific wage data available to develop a wage index based on data from excluded hospitals (or, as the commenter specifically requested, a long-term care hospital exclusive wage index). We may consider exploring the feasibility of developing a wage index for excluded hospitals and units in the future. However, the commenter has not presented any evidence that the acute care wage index inappropriately reflects the differences in wage-related costs for excluded hospital and units. We believe that the acute care wage index provides for an appropriate adjustment to account for wage-related costs in determining a hospital's wage-adjusted cap on its target amount.

In the interim final rule with comment period implementing certain provisions of Public Law 106–113 that we are publishing elsewhere in this issue of the **Federal Register** we revised §§ 413.40(c)(4)(i) and (c)(4)(ii) to incorporate the changes in the formula used to determine the limitation on the target amounts for excluded hospitals and units, as provided for by section 121 of Public Law 106–113.

In response to the May 5, 2000 proposed rule, we received two public comments relating to establishment of the wage-adjusted caps on the target amounts for excluded hospitals and units.

Comment: One commenter believed that the provision for a wage-adjustment to the national 75th percentile target amount cap placed on hospitals excluded from the prospective payment system provided HCFA with the broad authority to transition to a wage-adjusted cap over more than one period. The commenter suggested that the wage-adjusted caps on target amounts be phased-in over a period of time in a manner similar to the removal of teaching physician costs from the wage index calculation.

Response: Public Law 106–113, which was enacted November 29, 1999, directed us to retroactively provide for

a wage adjustment for the national 75th percentile target amounts for psychiatric and rehabilitation hospitals and units and for long-term care hospitals as of October 1, 1999. The purpose of the wage-adjustment to the 75th percentile cap on target amounts for excluded providers is to account for area differences in wage-related costs. We believe that the intent of this provision is to account for these wage differences beginning with cost reporting periods starting during FY 2000. Phasing-in the wage-adjustment to the caps on the target amounts would mitigate the purpose of the wage-adjustment because hospitals located in areas with wage index values greater than one would not receive the full intended benefit of the provision. Additionally, as we stated in the interim final rule with comment that we are publishing elsewhere in this issue of the **Federal Register** we estimate that most providers (93.3 percent of psychiatric hospitals and units, 97.5 percent of rehabilitation hospitals and units, and 93.5 percent of long-term care hospitals) are either not effected or are positively effected by the wage adjustment to the caps on the target amounts. Therefore, we believe it is inappropriate to phase in the wage-adjustment to the caps on the target amounts as the commenter recommended.

Additionally, the removal of the teaching physician costs on the wage index is set for a 5-year phase-out, while the wage-adjusted caps on national target amounts are only legislated to remain in effect from FY 2000 to FY 2002. As such, the remaining period of time for which these caps are in effect is too brief to warrant the administrative resources that would be involved in such a transition. The 5-year phase-out of the removal of teaching costs from the wage index was implemented based on the recommendation of an industry group made up of representatives from national and state hospital associations. While one commenter advocated the phase-in of the wage-adjustment to the caps on the target amounts, another commenter supported the complete implementation of the wage-adjustment to the caps on the target amounts effective FY 2000, since this adjustment reflects the higher cost incurred by providers located in areas with higher than the national average of labor expenditures.

Comment: One commenter commended the wage-adjustment to the caps on the target amounts for psychiatric and rehabilitation hospital and units and long-term care hospitals mandated by section 121 of Public Law 106-113. The commenter supported the

application of the acute care wage index to the caps on the national target amounts since the wage adjustment aids providers who incur costs higher than the national average simply because they are located in marketplaces with higher labor prices. The commenter also noted that the target amounts for existing hospitals are now in line with the target amounts for new hospitals, which have been wage adjusted since their implementation in FY 1998 by Public Law 105-33. The commenter further suggested that, if the three classes of hospitals have not been transitioned to prospective payment systems by FY 2002, the wage adjustment to the national target amounts for both new and existing providers should remain in place.

Response: We agree with the comment and we believe that our implementation of the wage adjustment is consistent with the statutory provision in Public Law 106-113. However, regardless of whether the prospective payment systems for these classes of providers have been implemented, we will only be in a position to continue the use of the wage-adjusted caps on the target amounts beyond FY 2002 if Congress directs us to do so through additional legislation.

2. Updated Caps for New Excluded Hospitals and Units (§ 413.40(f))

Section 1886(b)(7) of the Act establishes a payment methodology for new psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals. Under the statutory methodology, for a hospital that is within a class of hospitals specified in the statute and that first receives payment as a hospital or unit excluded from the prospective payment system on or after October 1, 1997, the amount of payment will be determined as follows:

For the first two 12-month cost reporting periods, the amount of payment is the lesser of (1) the operating costs per case; or (2) 110 percent of the national median of target amounts for the same class of hospitals for cost reporting periods ending during FY 1996, updated to the first cost reporting period in which the hospital receives payments and adjusted for differences in area wage levels. The amounts included in the following table reflect the updated 110 percent of the wage neutral national median target amounts for each class of excluded hospitals and units for cost reporting periods beginning during FY 2001. These figures are updated to reflect the market basket increase of 3.4 percent. For a new provider, the labor-related share of the

target amount is multiplied by the appropriate geographic area wage index and added to the nonlabor-related share in order to determine the per case limit on payment under the statutory payment methodology for new providers.

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	\$6,611	\$2,630
Rehabilitation	13,002	5,169
Long-Term Care	16,757	6,662

3. Development of Prospective Payment System for Inpatient Rehabilitation Hospitals and Units

Section 4421 of Public Law 105-33 added section 1886(j) to the Act. Section 1886(j) of the Act mandates the phase-in of a case-mix adjusted prospective payment system for inpatient rehabilitation services (freestanding hospitals and units) for cost reporting periods beginning on or after October 1, 2000 and before October 1, 2002. The prospective payment system will be fully implemented for cost reporting periods beginning on or after October 1, 2002. Section 1886(j) was amended by section 125 of Public Law 106-113 to require the Secretary to use the discharge as the payment unit under the prospective payment system for inpatient rehabilitation services and to establish classes of patient discharges by functional-related groups.

We will issue a separate notice of proposed rulemaking in the **Federal Register** on the prospective payment system for inpatient rehabilitation facilities. That document will discuss the requirements in section 1886(j)(1)(A)(i) of the Act for a transition phase covering the first two cost reporting periods under the prospective payment system. During this transition phase, inpatient rehabilitation facilities will receive a payment rate comprised of a blend of the facility specific rate (the TEFRA percentage) based on the amount that would have been paid under Part A with respect to these costs if the prospective payment system would not be implemented and the inpatient rehabilitation facility prospective payment rate (prospective payment percentage). As set forth in sections 1886(j)(1)(C)(i) and (ii) of the Act, the TEFRA percentage for a cost reporting period beginning on or after October 1, 2000, and before October 1, 2001, is 66 $\frac{2}{3}$ percent; the prospective payment percentage is 33 $\frac{1}{3}$ percent. For cost reporting periods beginning on or after October 1, 2001 and before October 1, 2002, the TEFRA percentage is 33 $\frac{1}{3}$

percent and the prospective payment percentage is 66²/₃ percent.

As provided in section 1886(j)(3)(A) of the Act, the prospective payment rates will be based on the average inpatient operating and capital costs of rehabilitation facilities and units.

Payments will be adjusted for case-mix using patient classification groups, area wages, inflation, outlier status and any other factors the Secretary determines necessary. We will propose to set the prospective payment amounts in effect during FY 2001 so that total payments under the system are projected to equal 98 percent of the amount of payments that would have been made under the current payment system. Outlier payments in a fiscal year may not be projected or estimated to exceed 5 percent of the total payments based on the rates for that fiscal year.

4. Continuous Improvement Bonus Payment

Under § 413.40(d)(4), for cost reporting periods beginning on or after October 1, 1997, an “eligible” hospital may receive continuous improvement bonus payments in addition to its payment for inpatient operating costs plus a percentage of the hospital’s rate-of-increase ceiling (as specified in § 413.40(d)(2)). An eligible hospital is a hospital that has been a provider excluded from the prospective payment system for at least three full cost reporting periods prior to the applicable period and the hospital’s operating costs per discharge for the applicable period are below the lowest of its target amount, trended costs, or expected costs for the applicable period. Prior to enactment of Public Law 106–113, the amount of the continuous improvement bonus payment was equal to the lesser of—

(a) 50 percent of the amount by which operating costs were less than the expected costs for the period; or

(b) 1 percent of the ceiling.

Section 122 of Public Law 106–113 amended section 1886(b)(2) of the Act to provide, for cost reporting periods

beginning on or after October 1, 2000, and before September 30, 2001, for an increase in the continuous improvement bonus payment for long-term care and psychiatric hospitals and units. Under section 1886(b)(2) of the Act, as amended, a hospital that is within one of these two classes of hospitals (psychiatric hospitals or units and long-term-care hospitals) will receive the lesser of 50 percent of the amount by which the operating costs are less than the expected costs for the period, or the increased percentages mandated by statute as follows:

(a) For a cost reporting period beginning on or after October 1, 2000 and before September 30, 2001, 1.5 percent of the ceiling; and

(b) For a cost reporting period beginning on or after

October 1, 2001, and before September 30, 2002, 2 percent of the ceiling.

We did not receive any public comments on our proposed revision of § 413.40(d)(4) to incorporate this provision of the statute and, therefore, are adopting it as final.

5. Changes in the Types of Patients Served or Inpatient Care Services That Distort the Comparability of a Cost Reporting Period to the Base Year Are Grounds for Requesting an Adjustment Payment in Accordance With Section 1886(b)(4) of the Act

Section 4419(b) of Public Law 104–33 requires the Secretary to publish annually in the **Federal Register** a report describing the total amount of adjustment (exception) payments made to excluded hospitals and units, by reason of section 1886(b)(4) of the Act, during the previous fiscal year. However, the data on adjustment payments made during the previous fiscal year are not available in time to publish a report describing the total amount of adjustment payments made to all excluded hospitals and units in the subsequent year’s final rule published in the **Federal Register**.

The process of requesting, adjudicating, and awarding an adjustment payment for a given cost reporting period occurs over a 2-year period or longer. An excluded hospital or unit must first file its cost report for the previous fiscal year with its intermediary within 5 months after the close of the previous fiscal year. The fiscal intermediary then reviews the cost report and issues a Notice of Program Reimbursement (NPR) in approximately 2 months. If the hospital’s operating costs are in excess of the ceiling, the hospital may file a request for an adjustment payment within 6 months from the date of the NPR. The intermediary, or HCFA, depending on the type of adjustment requested, then reviews the request and determines if an adjustment payment is warranted. This determination is often not made until more than 6 months after the date the request is filed. Therefore, it is not possible to provide data in a final rule on adjustments granted for cost reports ending in the previous Federal fiscal year, since those adjustments have not even been requested by that time. However, in an attempt to provide interested parties at least some relevant data on adjustments, we are publishing data on requests for adjustments that were processed by the fiscal intermediaries or HCFA during the previous Federal fiscal year.

The table below includes the most recent data available from the fiscal intermediaries and HCFA on adjustment payments that were adjudicated during FY 1999. By definition these were for cost reporting periods ending in years prior to FY 1998. The total adjustment payments awarded to excluded hospitals and units during FY 1999 are \$73,532,146. The table depicts for each class of hospital, in aggregate, the number of adjustment requests adjudicated, the excess operating cost over the ceiling, and the amount of the adjustment payment.

Class of hospital	Number	Excess cost over ceiling	Adjustment payment
Psychiatric	198	\$100,861,663	\$49,986,012
Rehabilitation	53	32,690,736	16,798,634
Long-term care	4	3,239,164	2,577,455
Children’s	7	3,311,758	1,470,670
Cancer	2	4,849,093	2,699,375

B. Responsibility for Care of Patients in Hospitals-Within-Hospitals
(§ 413.40(a)(3))

Effective October 1, 1999, for hospitals-within-hospitals, we implemented a policy that allows for a 5-percent threshold for cases in which a patient discharged from an excluded hospital-within-a-hospital and admitted to the host hospital was subsequently readmitted to the excluded hospital-within-a-hospital. With respect to these cases, if the excluded hospital exceeds the 5-percent threshold, we do not include any previous discharges to the prospective payment hospital in calculating the excluded hospital's cost per discharge. That is, the entire stay is considered one Medicare "discharge" for purposes of payments to the excluded hospital. The effect of this rule, as explained more fully in the May 7, 1999 proposed rule (64 FR 24716) and in the July 30, 1999 final rule (64 FR 41490), is to prevent inappropriate Medicare payment to hospitals having a large number of such stays.

In the existing regulations at § 413.40(a)(3), we state that the 5-percent threshold is determined based on the total number of discharges from the hospital-within-a-hospital. We have received questions as to whether, in determining whether the threshold is met, we consider Medicare patients only or all patients (Medicare and non-Medicare). To avoid any further misunderstanding, in the May 5, 2000 proposed rule, we indicated our intent to clarify the definition of "ceiling" in § 413.40(a)(3) by specifying that the 5-percent threshold is based on the Medicare inpatients discharged from the hospital-within-a-hospital in a particular cost reporting period, not on total Medicare and non-Medicare inpatient discharges.

We did not receive any public comments on our proposed clarification of the definition of "ceiling" in § 413.40(a)(3) and, therefore, are adopting the revision as final.

C. Critical Access Hospitals (CAHs)

1. Election of Payment Method
(§ 413.70)

Section 1834(g) of the Act, as in effect before enactment of Public Law 106-113, provided that the amount of payment for outpatient CAH services is the reasonable costs of the CAH in providing such services. However, the reasonable costs of the CAH's services to outpatients included only the CAH's costs of providing facility services, and did not include any payment for professional services. Physicians and other practitioners who furnished

professional services to CAH outpatients billed the Part B carrier for these services and were paid under the physician fee schedule in accordance with the provisions of section 1848 of the Act.

Section 403(d) of Public Law 106-113 amended section 1834(g) of the Act to permit the CAH to elect to be paid for its outpatient services under another option. CAHs making this election would be paid amounts equal to the sum of the following, less the amount that the hospital may charge as described in section 1866(a)(2)(A) of the Act (that is, Part A and Part B deductibles and coinsurance):

(1) For facility services, not including any services for which payment may be made as outpatient professional services, the reasonable costs of the CAH in providing the services; and

(2) For professional services otherwise included within outpatient CAH services, the amounts that would otherwise be paid under Medicare if the services were not included in outpatient CAH services.

Section 403(d) of Public Law 106-113 added section 1834(g)(3) to the Act to further specify that payment amounts under this election are to be determined without regard to the amount of the customary or other charge.

The amendment made by section 403(d) is effective for cost reporting periods beginning on or after October 1, 2000.

In the May 5, 2000 proposed rule, we proposed to revise § 413.70 to incorporate the provisions of section 403(d) of Public Law 106-113. The existing § 413.70 specifies a single set of reasonable cost basis payment rules applicable to both inpatient and outpatient services furnished by CAHs. As section 403(d) of Public Law 106-113 provides that, for outpatient CAH services, CAHs may elect to be paid on a reasonable cost basis for facility services and on a fee schedule basis for professional services, we proposed to revise the section to allow for separate payment rules for CAH inpatient and outpatient services.

We proposed to place the provisions of existing § 413.70(a) and (b) that relate to payment on a reasonable cost basis for inpatient services furnished by a CAH under proposed § 413.70(a). Proposed § 413.70(a)(2) also stated that payment to a CAH for inpatient services does not include professional services to CAH inpatients and is subject to the Part A hospital deductible and coinsurance determined under 42 CFR Part 409, Subpart G.

We proposed to include under § 413.70(b) the payment rules for

outpatient services furnished by CAHs, including the option for CAHs to elect to be paid on the basis of reasonable costs for facility services and on the basis of the physician fee schedule for professional services. Under proposed § 413.70(b)(2), we would retain the existing provision that unless the CAH elects the option provided for under section 403 of Public Law 106-113, payment for outpatient CAH services is on a reasonable cost basis, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in Parts 413 and 415 (except for certain payment principles that do not apply; that is, the lesser of costs or charges, RCE limits, any type of reduction to operating or capital costs under § 413.124 or § 413.130(j)(7), and blended payment amounts for ambulatory surgical center services, radiology services, and other diagnostic services).

Under proposed § 413.70(b)(3), we specified that any CAH that elects to be paid under the optional method must make an annual request in writing, and deliver the request for the election to the fiscal intermediary at least 60 days before the start of the affected cost reporting period. In addition, proposed § 413.70(b)(3)(ii) stated that if a CAH elects payment under this method, payment to the CAH for each outpatient visit will be the sum of the following two amounts:

- For facility services, not including any outpatient professional services for which payment may be made on a fee schedule basis, the amount would be the reasonable costs of the services as determined in accordance with applicable principles of cost reimbursement in 42 CFR Parts 413 and 415, except for certain payment principles that would not apply as specified above; and

- For professional services, otherwise payable to the physician or other practitioner on a fee schedule basis, the amounts would be those amounts that would otherwise be paid for the services if the CAH had not elected payment under this method.

We also proposed in § 413.70(b)(3)(iii) that payment to a CAH for outpatient services would be subject to the Part B deductible and coinsurance amounts, as determined under §§ 410.152, 410.160, and 410.161. In proposed § 413.70(c), we stated that final payment to the CAH for its facility services to inpatients and outpatients furnished during a cost reporting would be based on a cost report for that period, as required under § 413.20(b).

Comment: One commenter expressed concern about several CAH payment issues on which we did not propose to change existing policy. These comments related to payment for costs attributable to Medicare bed debts, counting of beds toward the 15- and 25-bed maximums, and payment for swing-bed services in CAHs.

Response: Because these comments dealt with matters beyond the scope of the proposed rule, we have received them with interest and will consider whether any changes in policy are needed at a later date.

We are adopting the proposed revisions to § 413.70 as final. The revised § 413.70 includes at paragraph (b)(2)(iii) the text of a paragraph (c) that was added in the interim final rule with comment period that implemented certain provisions of Public Law 106–33 published elsewhere in this issue of the **Federal Register**. We did not revise the text of this paragraph (c); we merely changed the paragraph coding to fit it into the scheme of coding of the revised § 413.70.

2. Condition of Participation: Organ, Tissue, and Eye Procurement (§ 485.643)

Sections 1820(c)(2)(B) and 1861(mm) of the Act set forth the criteria for designating a CAH. Under this authority, the Secretary has established in regulations the minimum requirements a CAH must meet to participate in Medicare (42 CFR Part 485, Subpart F).

Section 1905(a) of the Act provides that Medicaid payments may be made for any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary. The Secretary has specified CAH services as Medicaid services in regulations. Specifically, the regulations at 42 CFR 440.170(g)(1)(i), define CAH services under Medicaid as those services furnished by a provider meeting the Medicare conditions of participation (CoP).

Section 1138 of the Act provides that a CAH participating in Medicare must establish written protocols to identify potential organ donors that: (1) Assure that potential donors and their families are made aware of the full range of options for organ or tissue donation as well as their rights to decline donation; (2) encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of those families; and (3) require that an organ procurement agency designated by the Secretary be notified of potential organ donors.

On June 22, 1998, as part of the Medicare hospital conditions of participation under Part 482, subpart C,

we added to the regulations at § 482.45, a condition that specifically addressed organ, tissue, and eye procurement. However, Part 482 does not apply to CAHs, as CAHs are a distinct type of provider with separate CoP under Part 485. Therefore, in the proposed rule, we proposed to add a CoP for organ, tissue, and eye procurement for CAHs at a new § 485.643 that generally parallels the CoP at § 482.45 for all Medicare hospitals with respect to the statutory requirement in section 1138 of the Act concerning organ donation. CAHs are not full service hospitals and therefore are not equipped to perform organ transplantations. Therefore, we did not propose to include the standard applicable to Medicare hospitals that CAHs must be a member of the Organ Procurement and Transplantation Network (OPTN), abide by its rules and provide organ transplant-related data to the OPTN, the Scientific Registry, organ procurement agencies, or directly to the Department on request of the Secretary.

The proposed CoP for CAHs included several requirements designed to increase organ donation. One of these requirements is that a CAH must have an agreement with the Organ Procurement Organization (OPO) designated by the Secretary, under which the CAH will contact the OPO in a timely manner about individuals who die or whose death is imminent. The OPO will then determine the individual's medical suitability for donation. In addition, the CAH must have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes, as long as the agreement does not interfere with organ donation. The proposed CoP would require a CAH to ensure, in collaboration with the OPO with which it has an agreement, that the family of every potential donor is informed of its option to either donate or not donate organs, tissues, or eyes. The CAH may choose to have OPO staff perform this function, have CAH and OPO staff jointly perform this function, or rely exclusively on CAH staff. Research indicates that consent to organ donation is highest when the formal request is made by OPO staff or by OPO staff and hospital staff together. While we require collaboration, we also recognize that CAH staff may wish to perform this function and may do so when properly trained. Moreover, the CoP would require the CAH to ensure that CAH employees who initiate a request for donation to the family of a potential

donor have been trained as designated requestors.

Finally, we proposed that the CoP would require the CAH to work with the OPO and at least one tissue bank and one eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of organs and tissues is underway.

Because we were sensitive to the possible burden the proposed CoP could place on CAHs, we invited public comments and information concerning the following requirements: (1) Developing written protocols for donations; (2) developing agreements with OPOs, tissue banks, and eye banks; (3) referring all deaths to the OPO; (4) working cooperatively with the designated OPO, tissue bank, and eye bank in educating staff on donation issues, reviewing death records, and maintaining potential donors. We note that the proposed requirement allowed some degree of flexibility for the CAH. For example, the CAH would have the option of using an OPO-approved education program to train its own employees as routine requestors or deferring requesting services to the OPO, the tissue bank, or the eye bank to provide requestors.

We did not receive any public comments on the proposed CAH CoP on organ, tissue, and eye procurement. We are adopting § 485.643 as final.

VII. MedPAC Recommendations

On March 1, 2000 the Medicare Payment Advisory Commission (MedPAC) issued its annual report to Congress, including several recommendations related to the inpatient operating payment system. Those related to the inpatient prospective payment systems were: Congress should establish a single set of payment adjusters for both the operating and capital systems; HCFA should expand the definition of transfers which applies a transfer policy to patients transferred to postacute settings; and, Congress should reformulate the Medicare DSH adjustment. In the proposed rule, we responded to these recommendations.

In addition, this year MedPAC published another report in June with additional recommendations. Among the recommendations were: FY 2001 updates to the operating and capital payment rates; moving to refined DRGs to better capture variations in patient severity; adopting DRG-specific outlier offsets; Congress should provide the Secretary the authority to adjust the

base payment amounts for anticipated coding changes; and, Congress should fold inpatient direct GME into the prospective payment system through a revised teaching hospital adjustment. A discussion of MedPAC's update recommendation can be found in Appendix D of this final rule.

A. Combined Operating and Capital Prospective Payment Systems (Recommendation 3J: March Report)

Recommendation: The Congress should combine prospective payment system operating and capital payment rates to create a single prospective rate for hospital inpatient care. This change would require a single set of payment adjustments—in particular, for indirect medical education and disproportionate share hospital payments—and a single payment update.

Response: We responded to a similar comment in the July 30, 1999 final rule (64 FR 41552), the July 31, 1998 final rule (63 FR 41013), and the September 1, 1995 final rule (60 FR 45816). In those rules, we stated that our long-term goal was to develop a single update framework for operating and capital prospective payments and that we would begin development of a unified framework. However, we have not yet developed such a single framework as the actual operating system update has been determined by Congress through FY 2002. In the meantime, we intend to maintain as much consistency as possible with the current operating framework in order to facilitate the eventual development of a unified framework. We maintain our goal of combining the update frameworks at the end of the 10-year capital transition period (the end of FY 2001) and may examine combining the payment systems post-transition. Because of the similarity of the update frameworks, we believe that they could be combined with little difficulty.

In the discussion of its recommendation, MedPAC notes that it "is examining broad reforms to the prospective payment system, including DRG refinement and modifications of the graduate medical education payment and the IME and DSH adjustments. The Commission believes that a combined hospital prospective payment rate should be established whether or not broader reforms are undertaken. However, if the Congress acts on any or all of the Commission's recommendations, it should consider combining operating and capital payments as part of a larger package."

We agree that ultimately the operating and capital prospective payment systems should be combined into a

single system. However, we believe that, because of MedPAC's ongoing analysis and the Administration's pending DSH report to Congress, any such unification should occur within the context of other system refinements.

B. Continuing Postacute Transfer Payment Policy (Recommendation 3K: March Report)

Recommendation: The Commission recommends continuing the existing policy of adjusting per case payments through an expanded transfer policy when a short length of stay results from a portion of the patient's care being provided in another setting.

Response: As noted in section IV.A. of this preamble, we have undertaken (through a contract with HER) an analysis of the impact on hospitals and hospital payments of the postacute transfer provision. That analysis (based on preliminary data covering only approximately 6 months of discharge data) showed a minimal impact on the rate of short-stay postacute transfers after implementation of the policy. However, average profit margins as measured by HER declined from \$3,496 prior to implementation of the policy to \$2,255 after implementation. We believe these preliminary findings demonstrate that the postacute transfer provision has had only marginal impact on existing practice patterns while more closely aligning the payments to hospitals for these cases with the costs incurred. Therefore, we agree with MedPAC's recommendation that the policy should be continued.

C. Disproportionate Share Hospitals (DSH) (Recommendations 3L and 3M: March Report)

Recommendation: To address longstanding problems and current legal and regulatory developments, Congress should reform the disproportionate share adjustment to: Include the costs of all poor patients in calculating low-income shares used to distribute disproportionate share payments, and use the same formula to distribute payments to all hospitals covered by prospective payment.

Response: As we noted in section IV.E. of this preamble, Public Law 106-113 directed the Secretary to require subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Act) to submit data on costs incurred for providing inpatient and outpatient hospital services for which the hospital is not compensated, including non-Medicare bad debt, charity care, and charges for Medicaid and indigent care. These data must be reported on the hospital's cost reports for cost reporting

periods beginning on or after October 1, 2001, and will provide information that will enable MedPAC and us to evaluate potential refinements to the DSH formula to address the issues referred to by MedPAC.

Medicare fiscal intermediaries will audit these data to ensure their accuracy and consistency. Our experience with administering the current DSH formula leads us to believe that this auditing function would necessarily be extensive, because the non-Medicare data that would be collected have never before been collected and reviewed by Medicare's fiscal intermediaries. The data would have to be determined to be accurate and usable, and corrected if necessary.

We agree that the current statutory payment formula could be improved, largely because of different threshold levels and different formula parameters applicable to different groups of hospitals. We are in the process of preparing a report to Congress on the Medicare DSH adjustment that includes options for amending the statutory formula.

Comment: We received one comment regarding MedPAC's recommendation. The commenter expressed the concern that any unrecoverable costs from certified registered nurse anesthetist services in providing anesthesia and related care to indigent patients may not be included in the bad debt costs of hospitals.

Response: One of the difficulties in collecting uncompensated care and non-Medicare bad debt data is defining exactly the types of data being sought, particularly when there are no existing cost reporting guidelines to follow. We will be working closely with the hospital industry to identify and collect these data.

Recommendation: To provide further protection for the primarily voluntary hospitals with mid-level low-income shares, the minimum value, or threshold, for the low-income share that a hospital must have before payment is made should be set to make 60 percent of hospitals eligible to receive disproportionate share payments.

Response: Currently, fewer than 40 percent of all prospective payment system hospitals receive DSH payments. Therefore, this recommendation would entail significant redistributions of existing DSH payments if implemented in a budget neutral manner. We are particularly concerned about the effect of this recommendation on hospitals receiving substantial DSH payments currently, including major teaching hospitals and public hospitals. The analysis by MedPAC demonstrates that

these hospitals would be negatively impacted, if more hospitals were made eligible for DSH payments.

*D. Severity-Adjusted DRGs
(Recommendation 3A: June Report)*

Recommendation: The Secretary should improve the hospital inpatient prospective payment system by adopting, as soon as practicable, DRG refinements that more fully capture differences in severity of illness among patients. At the same time, she should make the DRG payment rates more accurate by basing the DRG relative weights on the national average of hospitals' relative values in each DRG.

Response: For its analysis, MedPAC used the severity classifications from the all patient refined diagnosis related groups (APR-DRG) system. According to MedPAC, under this system each patient is initially assigned to 1 of 355 APR-DRGs. Each APR-DRG is broken into four severity classes: minor, moderate, major or extreme. Assignment to these classes within the APR-DRG is based on specific combinations of secondary diagnoses, age, procedures, and other factors. This process yields 1,420 distinct groups, compared with fewer than 500 DRGs. The MedPAC points out that "to avoid creating refined DRGs that might have unstable relative weights, the Secretary should be selective in adopting clinical distinctions similar to those reflected in the APR-DRGs. This will require carefully weighing the benefits of more accurate clinical and economic distinctions against the potential for instability in relative weights based on small numbers of cases (p. 64)."

The MedPAC's predecessor, the Prospective Payment Assessment Commission, made a similar recommendation in 1995. In the June 2, 1995 proposed rule (60 FR 29246), we agreed with the Commission's judgment that adopting the severity DRGs would tend to reduce discrepancies between payments and costs for individual cases and thereby improve payment equity among hospitals. In the same rule, we also agreed with the Commission that basing DRG weights on standardized charges results in weights that are somewhat distorted as measures of the relative costliness of treating a typical case in each DRG, and that the hospital-specific relative value method of setting weights may reduce or eliminate distortions present in the current system.

However, in our discussion on DRG refinements in the same rule (60 FR 29209) we reiterated our position published in the final rule on September 1, 1992 (57 FR 39761) that we would not

propose to make significant changes to the DRG classification system, unless we are able either to improve our ability to predict coding changes by validating in advance the impact that potential DRG changes may have on coding behavior, or to make methodological changes to prevent building the inflationary effects of the coding changes into future program payments. In addition, we would need specific legislative authority to offset, through adjustments to the standardized amounts, any significant anticipated increase in payments attributable to changes in coding practices caused by significant changes to the DRG classification system. Because we have not been granted this authority, we do not believe it would be appropriate to adopt revised severity-adjusted DRGs at this time.

*E. DRG-Specific Outlier Offsets
(Recommendation 3B: June Report)*

Recommendation: Congress should amend the law to change the method now used to finance outlier payments under the hospital inpatient prospective payment system. Projected outlier payments in each DRG should be financed through an offsetting adjustment to the relative weight for the category, rather than the current flat adjustment to the national average base payment amounts.

Response: Under this recommendation, outlier payments would be financed through an offset to the relative weight of each DRG based on the proportion of outlier cases in that DRG, rather than an overall offset to the standardized amounts as is done currently. This would more directly relate payments under each DRG to the proportion of outlier cases occurring within that DRG.

Because the effects on DRG weights of implementing severity refinements, changing the method used to calculate DRG relative weights, and adopting DRG-specific outlier financing are interactive, we believe that we should make appropriate changes concurrently. Therefore, as stated in our response to recommendation 3A, we would not recommend that Congress implement this recommendation until we are able to offset, through adjustments to the standardized amounts, any significant anticipated increase in payments attributable to changes in coding practices caused by significant changes to the DRG classification system.

In addition, we are concerned that any benefits of adopting the Commission's recommendation would not outweigh the additional complexity and variation it would add to the

already complex process of calculating outlier thresholds so that outlier payments are projected to equal a certain percentage between 5 and 6 of DRG payments.

*F. Gradual Implementation of DRG Refinement and DRG-Specific Outlier Offsets
(Recommendation 3C: June Report)*

Recommendation: To avoid imposing extraordinary financial burdens on individual providers, the Congress should ensure that the case-mix measurement and outlier financing policies recommended earlier are implemented gradually over a period of several years. Further, the Congress should consider including protective policies, such as exemptions or hold-harmless provisions, for providers in circumstances in which vulnerable populations' access to care might be disrupted.

Response: The Commission's analyses show that implementing its case-mix measurement and outlier financing recommendations would substantially change PPS payments for many hospitals and may impose heavy burdens on individual hospitals. The Commission believes that many of these hospitals could accommodate the changes in an orderly way under traditional phase-in mechanisms. The Commission also states that some hospitals, including some groups of rural hospitals, may need longer term relief from the financial impact of these changes. The Commission suggests that this relief might include such approaches as targeted additional payments, hold-harmless provisions, and temporary or permanent exemptions.

We are concerned that implementing the Commission's recommendations may increase the need for special payment exceptions for various categories of hospitals to ensure continued access to care for many Medicare beneficiaries. Before recommending implementation of these refinements to the payment system, they must be examined to determine how the changes would impact hospitals financially and strategies would need to be developed for countering effects that could endanger beneficiaries' access to quality health care.

*G. Congress Should Grant the Secretary the Authority to Offset Payments for Anticipated Coding Changes
(Recommendation 3D: June Report)*

Recommendation: The Congress should give the Secretary explicit authority to adjust the hospital inpatient base payment amounts if anticipated

coding improvements in response to refinements in case-mix measurement are expected to increase aggregate payments by a substantial amount during the forthcoming year. This adjustment should be separate from the annual update. Further, the Congress should require the Secretary to measure the extent of actual coding improvements based on the bills providers submit for payment and make a timely adjustment to correct any substantial forecast error.

Response: In the past, whenever significant refinements to the DRGs have been implemented, there have been unanticipated payment increases as hospitals have responded with changes to their coding practices, resulting in more cases being assigned to higher-weighted DRGs than estimated when the DRG relative weights were calculated. We anticipate that a similar effect would occur following implementation of refined DRGs.

Therefore, we agree with MedPAC's recommendation that Congress give the Secretary explicit authority to adjust the hospital inpatient base payment amounts if anticipated coding improvements in response to refinements in case-mix measurement are expected to increase aggregate payments by a substantial amount during the forthcoming year. We also agree that adjustments to correct substantial forecast errors would be appropriate.

H. Fold Inpatient Direct GME Costs Into the Prospective Payment System (Recommendation 3E: June Report)

Recommendation: Congress should fold inpatient direct graduate medical education costs into prospective payment system payment rates through a revised teaching hospital adjustment. The new adjustment should be set such that the subsidy provided to teaching hospitals would be added to the IME adjustment. This recommendation should be implemented with a reasonable transition to limit the impact on hospitals of substantial changes in Medicare payments and to ensure that beneficiaries have continued access to the services that teaching hospitals provide.

Response: MedPAC cites two primary reasons for its recommendation: to improve payment equity among teaching hospitals by eliminating the wide variation in current hospital-specific GME payment amounts, and to establish that GME payments are a part of patient care costs. MedPAC proposes three options for folding direct GME costs into PPS in terms of its impact on total payments: fold inpatient direct

GME costs into the prospective payment rates, holding aggregate payments and special payments to teaching hospitals constant; fold inpatient direct GME costs into the prospective payment rates, holding aggregate payments constant, and redistributing teaching hospital subsidies across all hospitals; and fold inpatient direct GME costs into prospective payment rates with no constraint on aggregate payments and no teaching hospital subsidy. The commission recommends the first option. While we do not disagree with MedPAC's objectives, we believe that there are still some significant issues related to these recommendations.

First, Congress has already taken steps towards addressing the direct GME payment variation. Section 311 of the BBRA of 1999 established a 70 percent floor and a 140 percent ceiling based on a national average per resident amount for direct GME payment purposes for FYs 2001 through 2005. While we agree with the objective of decreasing the variation in the current per resident amounts, the same objective can be achieved by moving to a national, rather than hospital-specific, per resident amount.

Second, MedPAC asserts that folding the direct GME payments into the prospective payment system will establish that GME payments are payments to account for the increased costs of inpatient care due to residency training. However, we would note the current direct GME payments are distributed on the basis of Medicare's patient share, based on the percentage of total Medicare inpatient days to total hospital inpatient days. It is unclear exactly how MedPAC's recommendation would better associate GME payments with the increased costs of patient care without rebasing the current IME adjustment to more appropriately reflect the empirical estimate of those increased costs, both direct and indirect. Furthermore, the current distribution of IME payments is not directly linked to the involvement of residents providing patient care, but instead is based on each Medicare discharge, adjusted for the other payment factors. In addition, if the recommended teaching adjustment is a mechanism for accounting for the extra costs of inpatient training, it seems inappropriate to include residents not training in inpatient settings in a payment for inpatient care costs.

Third, MedPAC estimates show that the IME adjustment for operating payments would be only 3.2 percent, if it were based on the empirical relationship between costs and the ratio of residents to hospital beds. This is

significantly less than the adjustment of 5.5 percent, which is the adjustment set for the end of the phase-in under current law. MedPAC asserts that approximately \$1.5 billion of the IME payments to teaching hospitals result from paying more than the empirical estimate suggests. Under MedPAC's recommendation, the direct GME payments would essentially be added to current IME payments. However, we feel that it is inappropriate to revise the teaching adjustment in such a way that would constitute a further add-on to the current IME payments which MedPAC believes are excessive. Before such a change is adopted, Congress should determine a more accurate level at which to set the IME adjustment.

In addition, we note that MedPAC recommends folding the direct GME costs into the prospective payment system based on the most recent cost reports. The costs associated with GME, however, are no longer routinely audited by the fiscal intermediaries. Any reconstitution of the direct GME payment methodology based on recent cost reports would require further extensive audit work by the fiscal intermediaries.

VIII. Other Required Information

A. Requests for Data From the Public

In order to respond promptly to public requests for data related to the prospective payment system, we have set up a process under which commenters can gain access to the raw data on an expedited basis. Generally, the data are available in computer tape or cartridge format; however, some files are available on diskette as well as on the Internet at <http://www.hcfa.gov/stats/pubfiles.html>. In our May 5, 2000 proposed rule, we published a list of data files that are available for purchase (65 FR 26318 through 26320).

B. Information Collection Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.

- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

In the May 5, 2000 proposed rule, we solicited public comment on each of the information collection requirements in §§ 412.77, 412.92, and 485.643 described below.

Section 412.77, Determination of the hospital-specific rate for inpatient operating costs for certain sole community hospitals based on a Federal fiscal year 1996 base period, and § 412.92, Special treatment: sole community hospitals.

Sections 412.77(a)(2) and 412.92(d)(1)(ii) state that an otherwise eligible hospital that elects not to receive payment based on its hospital-specific rate as determined under § 412.77 must notify its fiscal intermediary of its decision prior to the beginning of its cost reporting period beginning on or after October 1, 2000.

We estimate that it will take each hospital that notifies its intermediary of its election not to receive payments based on its hospital-specific rate as determined under § 412.77 an hour to draft and send its notice. However, we are unable at this time to determine how many hospitals will make this election and, therefore, will need to notify their intermediaries of their decision.

Section 485.643, Condition of participation: Organ, tissue, and eye procurement.

It is important to note that because of the inherent flexibility of this final regulation, the extent of the information collection requirements is dependent upon decisions that will be made either by the CAH or by the OPO in conjunction with the OPO or the tissue and eye banks, or both. Thus, the paperwork burden on individual CAHs will vary and is subject, in large part, to their decisionmaking.

The burden associated with the requirements of this section include: (1) The requirement to maintain protocol documentation demonstrating that the five requirements of this section have been met; (2) the requirement for a CAH to notify an OPO, a tissue bank, or an eye bank of any imminent or actual death; and (3) the time required for a hospital to document and maintain OPO referral information.

We estimate that, on average, the requirement to maintain protocol documentation demonstrating that the requirements of this section have been met will impose one hour of burden on

each CAH (on 161 CAHs) on an annual basis, resulting in a total of 161 annual burden hours.

The CoP in this section will require CAHs to notify the OPO about every death that occurs in the CAH. The average Medicare hospital has approximately 165 beds and 200 deaths per year. However, by statute and regulation, CAHs may use no more than 15 beds for acute care services. Assuming that the number of deaths in a hospital is related to the number of acute care beds, there should be approximately 18 deaths per year in the average CAH. We estimate that the average notification telephone call to the OPO takes 5 minutes. Based on this estimate, a CAH would need approximately 90 minutes per year to notify the OPO about all deaths and imminent deaths.

Under the CoP, a CAH may agree to have the OPO determine medical suitability for tissue and eye donation or may have alternative arrangements with a tissue bank and an eye bank. These alternative arrangements could include the CAH's direct notification of the tissue and eye bank of potential tissue and eye donors or direct notification of all deaths. If a CAH chose to contact both a tissue bank and an eye bank directly on all deaths, it could need an additional 180 minutes per year (that is, 5 minutes per call) in order to call both the tissue and eye bank directly. Again, the impact is small, and this regulation permits the CAH to decide how this process will take place. We note that many communities already have a one-phone call system in place. In addition, some OPOs are also tissue banks or eye banks, or both. A CAH that chooses to use the OPO's tissue and eye bank services in these localities would need to make only one telephone call on every death.

We estimate that additional time would be needed by the CAH to annotate the patient record or fill out a form regarding the disposition of a call to the OPO, the tissue bank, or the eye bank, or all three. This recordkeeping should take no more than 5 minutes to record each disposition or call. Therefore, all of the paperwork burden associated with the call(s) could add up to an additional 270 minutes per year per CAH.

In summary, the information collection requirements of this section would be a range of 3 to 6 hours per CAH annually.

We did not receive any comments on the proposed information collection and recordkeeping requirements.

These new information collection and recordkeeping requirements have been

submitted to the Office of Management and Budget (OMB) for review under the authority of PRA. These requirements will not be effective until they have been approved by OMB.

The requirements associated with a hospital's application for a geographic redesignation, codified in Part 412, are currently approved by OMB under OMB approval number 0938-0573, with an expiration date of September 30, 2002.

List of Subjects

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 485

Grant programs-health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Chapter IV is amended as set forth below:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

A. Part 410 is amended as follows:

1. The authority citation for Part 410 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 410.152 [Amended]

2. In § 410.152, paragraph (k)(2), the cross-reference “§ 413.70(c)” is removed and “§ 413.70(b)(2)(iii)(B)” is added in its place.

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

B. Part 412 is amended as follows:

1. The authority citation for Part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 412.2 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 412.2 Basis of payment.

(a) *Payment on a per discharge basis.*
* * * An additional payment is made for both inpatient operating and inpatient capital-related costs, in accordance with subpart F of this part, for cases that are extraordinarily costly to treat.

* * * * *

§ 412.4 [Amended]

3. In § 412.4(f)(3), the reference to “§ 412.2(e)” is removed and “§ 412.2(b)” is added in its place.

4. Section 412.63 is amended by:

A. Revising paragraph (s).
B. Redesignating paragraphs (t), (u), (v), and (w) as paragraphs (u), (v), (w), and (x) respectively.

C. Adding a new paragraph (t).

§ 412.63 Federal rates for inpatient operating costs for fiscal years after Federal fiscal year 1984.

* * * * *

(s) *Applicable percentage change for fiscal year 2001.* The applicable percentage change for fiscal year 2001 is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) for sole community hospitals and the increase in the market basket index minus 1.1 percentage points for other hospitals in all areas.

(t) *Applicable percentage change for fiscal year 2002.* The applicable percentage change for fiscal year 2002 is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) minus 1.1 percentage points for hospitals in all areas.

* * * * *

5. Section 412.73 is amended by:

A. Revising paragraph (c)(12).
B. Adding paragraphs (c)(13), (c)(14), and (c)(15).

§ 412.73 Determination of the hospital-specific rate based on a Federal fiscal year 1982 base period.

* * * * *

(c) *Updating base-year costs—** * *

(12) *For Federal fiscal years 1996 through 2000.* For Federal fiscal years 1996 through 2000, the update factor is the applicable percentage change for other prospective payment hospitals in each respective year as set forth in §§ 412.63(n) through (r).

(13) *For Federal fiscal year 2001.* For Federal fiscal year 2001, the update factor is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this chapter).

(14) *For Federal fiscal year 2002.* For Federal fiscal year 2002, the update

factor is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this chapter) minus 1.1 percentage points.

(15) *For Federal fiscal year 2003 and for subsequent years.* For Federal fiscal year 2003 and subsequent years, the update factor is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this chapter).

* * * * *

§ 412.75 [Amended]

6. In § 412.75(d), the cross reference “§ 412.73 (c)(5) through (c)(12)” is removed and “§ 412.75(c)(15)” is added in its place.

§ 412.76 [Redesignated]

7. Section 412.76 is redesignated as a new § 412.78.

8. A new § 412.77 is added to read as follows:

§ 412.77 Determination of the hospital-specific rate for inpatient operating costs for certain sole community hospitals based on a Federal fiscal year 1996 base period.

(a) *Applicability.* (1) This section applies to a hospital that has been designated as a sole community hospital, as described in § 412.92, that received payment for its cost reporting period beginning during 1999 based on its hospital-specific rate for either fiscal year 1982 under § 412.73 or fiscal year 1987 under § 412.75, and that elects under paragraph (a)(2) of this section to be paid based on a fiscal year 1996 base period. If the 1996 hospital-specific rate exceeds the hospital-specific rates for either fiscal year 1982 or 1987, unless the hospital elects to the contrary, this rate will be used in the payment formula set forth under § 412.92(d)(1).

(2) Hospitals that are otherwise eligible for but elect not to receive payment on the basis of their Federal fiscal year 1996 updated costs per case must notify their fiscal intermediary of this decision prior to the end of their cost reporting period beginning on or after October 1, 2000, for which such payments would otherwise be made. If a hospital does not make the notification to its fiscal intermediary before the end of the cost reporting period, the hospital is deemed to have elected to have section 1886(b)(3)(I) of the Act apply to the hospital.

(3) This section applies only to cost reporting periods beginning on or after October 1, 2000.

(4) The formula for determining the hospital-specific costs for hospitals described under paragraph (a)(1) of this

section is set forth in paragraph (f) of this section.

(b) *Based costs for hospitals subject to fiscal year 1996 rebasing.* (1) *General rule.* Except as provided in paragraph (b)(2) of this section, for each hospital eligible under paragraph (a) of this section, the intermediary determines the hospital's Medicare Part A allowable inpatient operating costs, as described in § 412.2(c), for the 12-month or longer cost reporting period ending on or after September 30, 1996 and before September 30, 1997, and computes the hospital-specific rate for purposes of determining prospective payment rates for inpatient operating costs as determined under § 412.92(d).

(2) *Exceptions.* (i) If the hospital's last cost reporting period ending before September 30, 1997 is for less than 12 months, the base period is the hospital's most recent 12-month or longer cost reporting period ending before the short period report.

(ii) If the hospital does not have a cost reporting period ending on or after September 30, 1996 and before September 30, 1997, and does have a cost reporting period beginning on or after October 1, 1995 and before October 1, 1996, that cost reporting period is the base period unless the cost reporting period is for less than 12 months. If that cost reporting period is for less than 12 months, the base period is the hospital's most recent 12-month or longer cost reporting period ending before the short cost reporting period. If a hospital has no cost reporting period beginning in fiscal year 1996, the hospital will not have a hospital-specific rate based on fiscal year 1996.

(c) *Costs on a per discharge basis.* The intermediary determines the hospital's average base-period operating cost per discharge by dividing the total operating costs by the number of discharges in the base period. For purposes of this section, a transfer as defined in § 412.4(b) is considered to be a discharge.

(d) *Case-mix adjustment.* The intermediary divides the average base-period cost per discharge by the hospital's case-mix index for the base period.

(e) *Updating base-period costs.* For purposes of determining the updated base-period costs for cost reporting periods beginning in Federal fiscal year 1996, the update factor is determined using the methodology set forth in § 412.73(c)(12) through (c)(15).

(f) *DRG adjustment.* The applicable hospital-specific cost per discharge is multiplied by the appropriate DRG weighting factor to determine the hospital-specific base payment amount

(target amount) for a particular covered discharge.

(g) *Notice of hospital-specific rates.* The intermediary furnishes a hospital eligible for rebasing a notice of the hospital-specific rate as computed in accordance with this section. The notice will contain a statement of the hospital's Medicare Part A allowable inpatient operating costs, the number of Medicare discharges, and the case-mix index adjustment factor used to determine the hospital's cost per discharge for the Federal fiscal year 1996 base period.

(h) *Right to administrative and judicial review.* An intermediary's determination of the hospital-specific rate for a hospital is subject to administrative and judicial review. Review is available to a hospital upon receipt of the notice of the hospital-specific rate. This notice is treated as a final intermediary determination of the amount of program reimbursement for purposes of subpart R of part 405 of this chapter.

(i) *Modification of hospital-specific rate.* (1) The intermediary recalculates the hospital-specific rate to reflect the following:

(i) Any modifications that are determined as a result of administrative or judicial review of the hospital-specific rate determinations; or

(ii) Any additional costs that are recognized as allowable costs for the hospital's base period as a result of administrative or judicial review of the base-period notice of amount of program reimbursement.

(2) With respect to either the hospital-specific rate determination or the amount of program reimbursement determination, the actions taken on administrative or judicial review that provide a basis for the recalculations of the hospital-specific rate include the following:

(i) A reopening and revision of the hospital's base-period notice of amount of program reimbursement under §§ 405.1885 through 405.1889 of this chapter.

(ii) A prehearing order or finding issued during the provider payment appeals process by the appropriate reviewing authority under § 405.1821 or § 405.1853 of this chapter that resolved a matter at issue in the hospital's base-period notice of amount of program reimbursement.

(iii) An affirmation, modification, or reversal of a Provider Reimbursement Review Board decision by the Administrator of HCFA under § 405.1875 of this chapter that resolved a matter at issue in the hospital's base-period notice of amount of program reimbursement.

(iv) An administrative or judicial review decision under § 405.1831, § 405.1871, or § 405.1877 of this chapter that is final and no longer subject to review under applicable law or regulations by a higher reviewing authority, and that resolved a matter at issue in the hospital's base-period notice of amount of program reimbursement.

(v) A final, nonappealable court judgment relating to the base-period costs.

(3) The adjustments to the hospital-specific rate made under paragraphs (i)(1) and (i)(2) of this section are effective retroactively to the time of the intermediary's initial determination of the rate.

9. Section 412.92 is amended by:

A. Revising paragraph (d)(1).

B. Redesignating paragraph (d)(2) as paragraph (d)(3).

C. Adding a new paragraph (d)(2).

§ 412.92 Special treatment: sole community hospitals.

* * * * *

(d) *Determining prospective payment rates for inpatient operating costs for sole community hospitals—(1) General rule.* For cost reporting periods beginning on or after April 1, 1990, a sole community hospital is paid based on whichever of the following amounts yields the greatest aggregate payment for the cost reporting period:

(i) The Federal payment rate applicable to the hospitals as determined under § 412.63.

(ii) The hospital-specific rate as determined under § 412.73.

(iii) The hospital-specific rate as determined under § 412.75.

(iv) For cost reporting periods beginning on or after October 1, 2000, the hospital-specific rate as determined under § 412.77 (calculated under the transition schedule set forth in paragraph (d)(2) of this section), if the sole community hospital was paid for its cost reporting period beginning during 1999 on the basis of the hospital-specific rate specified in paragraph (d)(1)(ii) or (d)(1)(iii) of this section, unless the hospital elects otherwise under § 412.77(a)(1).

(2) *Transition of FY 1996 hospital-specific rate.* The intermediary calculates the hospital-specific rate determined on the basis of the fiscal year 1996 base period rate as follows:

(i) For Federal fiscal year 2001, the hospital-specific rate is the sum of 75 percent of the greater of the hospital-specific rates specified in paragraph (d)(1)(ii) or (d)(1)(iii) of this section, plus 25 percent of the hospital-specific

rate specified in paragraph (d)(1)(iv) of this section.

(ii) For Federal fiscal year 2002, the hospital-specific rate is the sum of 50 percent of the greater of the hospital-specific rates specified in paragraph (d)(1)(ii) or (d)(1)(iii) of this section plus 50 percent of the hospital-specific rate specified in paragraph (d)(1)(iv) of this section.

(iii) For Federal fiscal year 2003, the hospital-specific rate is the sum of 25 percent of the greater of the hospital-specific rates specified in paragraph (d)(1)(ii) or (d)(1)(iii) of this section, plus 75 percent of the hospital-specific rate specified in paragraph (d)(1)(iv) of this section.

(iv) For Federal fiscal year 2004 and any subsequent fiscal years, the hospital-specific rate is 100 percent of the hospital-specific rate specified in paragraph (d)(1)(iv) of this section.

* * * * *

10. Section 412.105 is amended by:

A. Revising paragraph (d)(3)(v).

B. Adding a new paragraph (d)(3)(vi).

C. Republishing paragraph (f)(1) introductory text and revising paragraph (f)(1)(vii).

D. Adding new paragraphs (f)(1)(viii) and (f)(1)(ix).

E. Revising paragraph (g).

§ 412.105 Special treatment: Hospitals that incur indirect costs for graduate medical education programs.

* * * * *

(d) *Determination of education adjustment factor.* * * *

(3) * * *

(v) For discharges occurring during fiscal year 2001, 1.54.

(vi) For discharges occurring on or after October 1, 2001, 1.35.

* * * * *

(f) *Determining the total number of full-time equivalent residents for cost reporting periods beginning on or after July 1, 1991.* (1) For cost reporting periods beginning on or after July 1, 1991, the count of full-time equivalent residents for the purpose of determining the indirect medical education adjustment is determined as follows:

* * * * *

(vii) If a hospital establishes a new medical residency training program, as defined in § 413.86(g)(9) of this subchapter, the hospital's full-time equivalent cap may be adjusted in accordance with the provisions of §§ 413.86(g)(6)(i) through (iv) of this subchapter.

(viii) A hospital that began construction of its facility prior to August 5, 1997, and sponsored new medical residency training programs on

or after January 1, 1995 and on or before August 5, 1997, that either received initial accreditation by the appropriate accrediting body or temporarily trained residents at another hospital(s) until the facility was completed, may receive an adjustment to its full-time equivalent cap in accordance with the provisions of § 413.86(g)(7) of this subchapter.

(ix) A hospital may receive a temporary adjustment to its full-time equivalent cap to reflect residents added because of another hospital's closure if the hospital meets the criteria specified in § 413.86(g)(8) of this subchapter.

(g) *Indirect medical education payment for managed care enrollees.* For portions of cost reporting periods occurring on or after January 1, 1998, a payment is made to a hospital for indirect medical education costs, as determined under paragraph (e) of this section, for discharges associated with individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 of the Act or with a Medicare+Choice organization under title XVIII, Part C of the Act during the period, according to the applicable payment percentages described in §§ 413.86(d)(3)(i) through (d)(3)(v) of this subchapter.

11. In § 412.106, the introductory text of paragraph (e) is republished and paragraphs (e)(4) and (e)(5) are revised to read as follows:

§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.

(e) *Reduction in payment for FYs 1998 through 2002.* The amounts otherwise payable to a hospital under paragraph (d) of this section are reduced by the following:

- (4) For FY 2001, 3 percent.
- (5) For FY 2002, 4 percent.

12. Section 412.230 is amended by:
A. Adding a new paragraph (a)(5)(iv).
B. Republishing the introductory text of paragraph (e)(1).
C. Revising paragraph (e)(1)(iii) and (e)(1)(iv).

§ 412.230 Criteria for an individual hospital seeking redesignation to another rural area or an urban area.

- (a) General.
- (5) *Limitations on redesignation.*

(iv) An urban hospital that has been granted redesignation as rural under § 412.103 cannot receive an additional reclassification by the MGCRB based on

this acquired rural status as long as such redesignation is in effect.

(e) *Use of urban or other rural area's wage index—(1) Criteria for use of area's wage index.* Except as provided in paragraphs (e)(3) and (e)(4) of this section, to use an area's wage index, a hospital must demonstrate the following:

(iii) One of the following conditions apply:

(A) With respect to redesignations for Federal fiscal year 1994 through 2001, the hospital's average hourly wage is at least 108 percent of the average hourly wage of hospitals in the area in which the hospital is located; or

(B) With respect to redesignations for Federal fiscal year 2002 and later years, the hospital's average hourly wage is, in the case of a hospital located in a rural area, at least 106 percent, and, in the case of a hospital located in an urban area, at least 108 percent of the average hourly wage of hospitals in the area in which the hospital is located; and

(iv) One of the following conditions apply:

(A) For redesignations effective before fiscal year 1999, the hospital's average hourly wage weighted for occupational categories is at least 90 percent of the average hourly wages of hospitals in the area to which it seeks redesignation.

(B) With respect to redesignations for fiscal year 1994 through 2001, the hospital's average hourly wage is equal to at least 84 percent of the average hourly wage of hospitals in the area to which it seeks redesignation.

(C) With respect to redesignations for fiscal year 2002 and later years, the hospital's average hourly wage is equal to, in the case of a hospital located in a rural area, at least 82 percent, and in the case of a hospital located in an urban area, at least 84 percent of the average hourly wage of hospitals in the area to which it seeks redesignation.

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

C. Part 413 is amended as follows:

1. The authority citation for Part 413 is revised to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, and 1886 of the Social Security Act (42

U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395hh, 1395rr, 1395tt, and 1395ww).

2. In § 413.40, paragraph (a)(3) is amended by revising paragraph (B) of the definition of "ceiling" and paragraph (d)(4) is revised, to read as follows:

§ 413.40 Ceiling on the rate of increase in hospital inpatient costs.

(a) *Introduction.*

(3) *Definitions.*

Ceiling.

(B) The hospital-within-a-hospital has discharged to the other hospital and subsequently readmitted more than 5 percent (that is, in excess of 5.0 percent) of the total number of Medicare inpatients discharged from the hospital-within-a-hospital in that cost reporting period.

(d) *Application of the target amount in determining the amount of payment.*

(4) *Continuous improvement bonus payments.* (i) For cost reporting periods beginning on or after October 1, 1997 and ending before October 1, 2000, eligible hospitals (as defined in paragraph (d)(5) of this section) receive payments in addition to those in paragraph (d)(2) of this section, as applicable. These payments are equal to the lesser of—

- (A) 50 percent of the amount by which the operating costs are less than the expected costs for the period; or
- (B) 1 percent of the ceiling.

(ii) For cost reporting periods beginning on or after October 1, 2000, and ending before September 30, 2001, eligible psychiatric hospitals and units and long-term care hospitals (as defined in paragraph (d)(5) of this section) receive payments in addition to those in paragraph (d)(2) of this section, as applicable. These payments are equal to the lesser of—

- (A) 50 percent of the amount by which the operating costs are less than the expected costs for the period; or
- (B) 1.5 percent of the ceiling.

(iii) For cost reporting periods beginning on or after October 1, 2001, and before September 30, 2002, eligible psychiatric hospitals and units and long-term care hospitals receive payments in addition to those in paragraph (d)(5) of this section, as applicable. These payments are equal to the lesser of—

- (A) 50 percent of the amount by which the operating costs are less than the expected costs for the periods; or
- (B) 2 percent of the ceiling.

3. Section 413.70 is revised to read as follows:

§ 413.70 Payment for services of a CAH.

(a) *Payment for inpatient services furnished by a CAH.* (1) Payment for inpatient services of a CAH is the reasonable costs of the CAH in providing CAH services to its inpatients, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in this part and in Part 415 of this chapter, except that the following payment principles are excluded when determining payment for CAH inpatient services:

- (i) Lesser of cost or charges;
- (ii) Ceilings on hospital operating costs; and
- (iii) Reasonable compensation equivalent (RCE) limits for physician services to providers.

(2) Payment to a CAH for inpatient services does not include any costs of physician services or other professional services to CAH inpatients, and is subject to the Part A hospital deductible and coinsurance, as determined under subpart G of part 409 of this chapter.

(b) *Payment for outpatient services furnished by a CAH—(1) General.* Unless the CAH elects to be paid for services to its outpatients under the method specified in paragraph (b)(3) of this section, the amount of payment for outpatient services of a CAH is the amount determined under paragraph (b)(2) of this section.

(2) *Reasonable costs for facility services.* (i) Payment for outpatient services of a CAH is the reasonable costs of the CAH in providing CAH services to its outpatients, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in this part and in Part 415 of this chapter, except that the following payment principles are excluded when determining payment for CAH outpatient services:

- (A) Lesser of costs or charges;
 - (B) RCE limits;
 - (C) Any type of reduction to operating or capital costs under § 413.124 or § 413.130(j)(7); and
 - (D) Blended payment amounts for ambulatory surgical services, radiology services, and other diagnostic services;
- (ii) Payment to a CAH under paragraph (b)(2) of this section does not include any costs of physician services or other professional services to CAH outpatients, and is subject to the Part B deductible and coinsurance amounts, as determined under §§ 410.152(k), 410.160, and 410.161 of this chapter.
- (iii) The following payment principles are used when determining payment for

outpatient clinical diagnostic laboratory tests.

(A) The amount paid is equal to 100 percent of the least of—

(1) Charges determined under the fee schedule as set forth in section 1833(h)(1) or section 1834(d)(1) of the Act;

(2) The limitation amount for that test determined under section 1833(h)(4)(B) of the Act or the amount of the charges billed for the test; or

(3) A negotiated rate established under section 1833(h)(6) of the Act.

(B) Payment for outpatient clinical diagnostic laboratory tests is not subject to the Medicare Part B deductible and coinsurance amounts, as specified in § 410.152(k) of this chapter.

(3) *Election to be paid reasonable costs for facility services plus fee schedule for professional services.* (i) A CAH may elect to be paid for outpatient services in any cost reporting period under the method described in paragraphs (b)(3)(ii) and (b)(3)(iii) of this section. This election must be made in writing, made on an annual basis, and delivered to the intermediary at least 60 days before the start of each affected cost reporting period. An election of this payment method, once made for a cost reporting period, remains in effect for all of that period and applies to all services furnished to outpatients during that period.

(ii) If the CAH elects payment under this method, payment to the CAH for each outpatient visit will be the sum of the following amounts:

(A) For facility services, not including any services for which payment may be made under paragraph (b)(3)(ii)(B) of this section, the reasonable costs of the services as determined under paragraph (b)(2)(i) of this section; and

(B) For professional services otherwise payable to the physician or other practitioner on a fee schedule basis, the amounts that otherwise would be paid for the services if the CAH had not elected payment under this method.

(iii) Payment to a CAH is subject to the Part B deductible and coinsurance amounts, as determined under §§ 410.152, 410.160, and 410.161 of this chapter.

(c) *Final payment based on cost report.* Final payment to the CAH for CAH facility services to inpatients and outpatients furnished during a cost reporting is based on a cost report for that period, as required under § 413.20(b).

4. Section 413.86 is amended by:

- A. Revising the first sentence of paragraph (d)(3).
- B. Revising the introductory text of paragraph (e)(3).

C. Redesignating paragraph (e)(4) as paragraph (e)(5).

D. Adding a new paragraph (e)(4).

E. Revising newly designated paragraph(e)(5)(i)(B).

F. Adding a new paragraph (e)(5)(iv).

§ 413.86 Direct graduate medical education payments.

* * * * *

(d) *Calculating payment for graduate medical education costs.* * * *

(3) *Step Three.* For portions of cost reporting periods occurring on or after January 1, 1998, the product derived in step one is multiplied by the proportion of the hospital's inpatient days attributable to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 of the Act and who are entitled to Medicare Part A or with a Medicare+Choice organization under Title XVIII, Part C of the Act. * * *

(e) *Determining per resident amounts for the base period.* * * *

(3) *For cost reporting periods beginning on or after July 1, 1986.* Subject to the provisions of paragraph (e)(4) of this section, for cost reporting periods beginning on or after July 1, 1986, a hospital's base-period per resident amount is adjusted as follows:

* * * * *

(4) *For cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30, 2005.* For cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30, 2005, a hospital's per resident amount for each fiscal year is adjusted in accordance with the following provisions:

(i) *General provisions.* For purposes of § 413.86(e)(4)—

(A) *Weighted average per resident amount.* The weighted average per resident amount is established as follows:

(1) Using data from hospitals' cost reporting periods ending during FY 1997, HCFA calculates each hospital's single per resident amount by adding each hospital's primary care and non-primary care per resident amounts, weighted by its respective FTEs, and dividing by the sum of the FTEs for primary care and non-primary care residents.

(2) Each hospital's single per resident amount calculated under paragraph (e)(4)(i)(A)(1) of this section is standardized by the 1999 geographic adjustment factor for the physician fee schedule area (as determined under § 414.26 of this chapter) in which the hospital is located.

(3) HCFA calculates an average of all hospitals' standardized per resident amounts that are determined under paragraph (e)(4)(i)(A)(2) of this section. The resulting amount is the weighted average per resident amount.

(B) *Primary care/obstetrics and gynecology and non-primary care per resident amounts.* A hospital's per resident amount is an amount inclusive of any CPI-U adjustments that the hospital may have received since the hospital's base year, including any CPI-U adjustments the hospital may have received because the hospital trains primary care/obstetrics and gynecology residents and non-primary care residents as specified under paragraph (e)(3)(ii) of this section.

(ii) *Adjustment beginning in FY 2001 and ending in FY 2005.* For cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30, 2005, a hospital's per resident amount is adjusted in accordance with paragraphs (e)(4)(ii)(A) through (e)(4)(ii)(C) of this section, in that order:

(A) *Updating the weighted average per resident amount for inflation.* The weighted average per resident amount (as determined under paragraph (e)(4)(i)(A) of this section) is updated by the estimated percentage increase in the CPI-U during the period beginning with the month that represents the midpoint of the cost reporting periods ending during FY 1997 (that is, October 1, 1996) and ending with the midpoint of the hospital's cost reporting period that begins in FY 2001.

(B) *Adjusting for locality.* The updated weighted average per resident amount determined under paragraph (e)(4)(ii)(A) of this section (the national average per resident amount) is adjusted for the locality of each hospital by multiplying the national average per resident amount by the 1999 geographic adjustment factor for the physician Fee schedule area in which each hospital is located, established in accordance with § 414.26 of this subchapter.

(C) *Determining necessary revisions to the per resident amount.* The locality-adjusted national average per resident amount, as calculated in accordance with paragraph (e)(4)(ii)(B) of this section, is compared to the hospital's per resident amount is revised, if appropriate, according to the following three categories:

(1) *Floor.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2001, if the hospital's per resident amount would otherwise be less than 70 percent of the locality-adjusted national average per resident amount for FY 2001 (as

determined under paragraph (e)(4)(ii)(B) of this section), the per resident amount is equal to 70 percent of the locality-adjusted national average per resident amount for FY 2001. For subsequent cost reporting periods, the hospital's per resident amount is updated using the methodology specified under paragraph (e)(3)(i) of this section.

(2) *Ceiling.* If the hospital's per resident amount is greater than 140 percent of the locality-adjusted national average per resident amount, the per resident amount is adjusted as follows for FY 2001 through FY 2005:

(i) *FY 2001.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2001, if the hospital's FY 2000 per resident amount exceeds 140 percent of the FY 2001 locality-adjusted national average per resident amount (as calculated under paragraph (e)(4)(ii)(B) of this section), then, subject to the provision stated in paragraph (e)(4)(ii)(C)(2)(iv) of this section, the hospital's per resident amount is frozen at the FY 2000 per resident amount and is not updated for FY 2001 by the CPI-U factor.

(ii) *FY 2002.* For cost reporting periods beginning on or after October 1, 2001 and on or before September 30, 2002, if the hospital's FY 2001 per resident amount exceeds 140 percent of the FY 2002 locality-adjusted national average per resident amount, then, subject to the provision stated in paragraph (e)(4)(ii)(C)(2)(iv) of this section, the hospital's per resident amount is frozen at the FY 2001 per resident amount and is not updated for FY 2002 by the CPI-U factor.

(iii) *FY 2003 through FY 2005.* For cost reporting periods beginning on or after October 1, 2002 and on or before September 30, 2005, if the hospital's per resident amount for the previous cost reporting period is greater than 140 percent of the locality-adjusted national average per resident amount for that same previous cost reporting period (for example, for cost reporting periods beginning in FY 2003, compare the hospital's per resident amount from the FY 2002 cost report to the hospital's locality-adjusted national average per resident amount from FY 2002), then, subject to the provision stated in paragraph (e)(4)(ii)(C)(2)(iv) of this section, the hospital's per resident amount is adjusted using the methodology specified in paragraph (e)(3)(i) of this section, except that the CPI-U applied for a 12-month period is reduced (but not below zero) by 2 percentage points.

(iv) *General rule for hospitals that exceed the ceiling.* For cost reporting periods beginning on or after October 1,

2000 and on or before September 30, 2005, if a hospital's per resident amount exceeds 140 percent of the hospital's locality-adjusted national average per resident amount and it is adjusted under any of the criteria (e)(4)(ii)(C)(2)(i) through (iii) of this section, the current year per resident amount cannot be reduced below 140 percent of the locality-adjusted national average per resident amount.

(3) *Per resident amounts greater than or equal to the floor and less than or equal to the ceiling.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005, if a hospital's per resident amount is greater than or equal to 70 percent and less than or equal to 140 percent of the hospital's locality-adjusted national average per resident amount for each respective fiscal year, the hospital's per resident amount is updated using the methodology specified in paragraph (e)(3)(i) of this section.

(5) *Exceptions—(i) Base period for certain hospitals.* * * *

(B) The weighted mean value of per resident amounts of hospitals located in the same geographic wage area, as that term is used in the prospective payment system under part 412 of this chapter, for cost reporting periods beginning in the same fiscal years. If there are fewer than three amounts that can be used to calculate the weighted mean value, the calculation of the per resident amounts includes all hospitals in the hospital's region as that term is used in § 412.62(f)(1)(i) of his chapter.

* * * * *

(iv) Effective October 1, 2000, the per resident amounts established under paragraphs (e)(5)(i) through (iii) of this section are subject to the provisions of paragraph (e)(4) of this section.

PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

D. Part 485 is amended as follows:

1. The authority citation for part 485 continues to read as follows:

Authority: Sec. 1820 of the Act (42 U.S.C. 1395i-1114), unless otherwise noted.

2. A new § 485.643 is added to subpart F to read as follows:

§ 485.643 Condition of participation: Organ, tissue, and eye procurement.

The CAH must have and implement written protocols that:

(a) Incorporate an agreement with an OPO designated under part 486 of this chapter, under which it must notify, in a timely manner, the OPO or a third party designated by the OPO of individuals whose death is imminent or

who have died in the CAH. The OPO determines medical suitability for organ donation and, in the absence of alternative arrangements by the CAH, the OPO determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the CAH for this purpose;

(b) Incorporate an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage and distribution of tissues and eyes, as may be appropriate to assure that all usable tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement;

(c) Ensure, in collaboration with the designated OPO, that the family of each potential donor is informed of its option to either donate or not donate organs, tissues, or eyes. The individual designated by the CAH to initiate the request to the family must be a designated requestor. A designated requestor is an individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ or tissue donation;

(d) Encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of the families of potential donors;

(e) Ensure that the CAH works cooperatively with the designated OPO, tissue bank and eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place.

(f) For purposes of these standards, the term "Organ" means a human kidney, liver, heart, lung, or pancreas.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance)

Dated: July 24, 2000.

Nancy Ann Min DeParle,

Administrator, Health Care, Financing Administration

Dated: July 24, 2000.

Donna E. Shalaa,

Secretary.

[Editorial Note: The following Addendum and appendixes will not appear in the Code of Federal Regulations.]

Addendum—Schedule of Standardized Amounts Effective with Discharges Occurring On or After October 1, 2000 and Update Factors and Rate-of-Increase Percentages Effective With Cost Reporting Periods Beginning On or After October 1, 2000

I. Summary and Background

In this Addendum, we are setting forth the amounts and factors for determining prospective payment rates for Medicare inpatient operating costs and Medicare inpatient capital-related costs. We are also setting forth rate-of-increase percentages for updating the target amounts for hospitals and hospital units excluded from the prospective payment system.

For discharges occurring on or after October 1, 2000, except for sole community hospitals, Medicare-dependent, small rural hospitals, and hospitals located in Puerto Rico, each hospital's payment per discharge under the prospective payment system will be based on 100 percent of the Federal national rate.

Sole community hospitals are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 25 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus 75 percent of the updated FY 1982 or FY 1987 hospital-specific rate. Section 405 of Public Law 106–113 amended section 1886(b)(3) of the Act to allow a sole community hospital that was paid for its cost reporting period beginning during FY 1999 on the basis of either its FY 1982 or FY 1987 hospital-specific rate to elect to rebase its hospital-specific rate based on its FY 1996 cost per discharge.

Section 404 of Public Law 106–113 amended section 1886(d)(5)(G) of the Act to extend the special treatment for Medicare-dependent, small rural hospitals. Medicare-dependent, small rural hospitals are paid based on the Federal national rate or, if higher, the Federal national rate plus 50 percent of the difference between the Federal national rate and the updated hospital-specific rate based on FY 1982 or FY 1987 cost per discharge, whichever is higher.

For hospitals in Puerto Rico, the payment per discharge is based on the sum of 50 percent of a Puerto Rico rate and 50 percent of a Federal national rate.

As discussed below in section II of this Addendum, we are making changes in the determination of the prospective payment rates for Medicare inpatient operating costs for FY 2001. The changes, to be applied prospectively, affect the calculation of the Federal rates. In section III of this Addendum, we finalize our proposal to discontinue listing updates to the payments per unit for blood clotting factor provided to hospital inpatients who have hemophilia. In section IV of this Addendum, we discuss our changes for determining the prospective payment rates for Medicare inpatient capital-related costs for FY 2001. Section V of this Addendum sets forth our changes for

determining the rate-of-increase limits for hospitals excluded from the prospective payment system for FY 2001. The tables to which we refer in the preamble to this final rule are presented at the end of this Addendum in section VI.

II. Changes to Prospective Payment Rates For Inpatient Operating Costs for FY 2001

The basic methodology for determining prospective payment rates for inpatient operating costs is set forth at § 412.63 for hospitals located outside of Puerto Rico. The basic methodology for determining the prospective payment rates for inpatient operating costs for hospitals located in Puerto Rico is set forth at §§ 412.210 and 412.212. Below, we discuss the factors used for determining the prospective payment rates. The Federal and Puerto Rico rate changes will be effective with discharges occurring on or after October 1, 2000. As required by section 1886(d)(4)(C) of the Act, we must also adjust the DRG classifications and weighting factors for discharges in FY 2001.

In summary, the standardized amounts set forth in Tables 1A and 1C of section VI of this Addendum reflect—

- Updates of 2.3 percent for all areas (that is, the market basket percentage increase of 3.4 percent minus 1.1 percentage points);
- An adjustment to ensure budget neutrality as provided for in sections 1886(d)(4)(C)(iii) and (d)(3)(E) of the Act by applying new budget neutrality adjustment factors to the large urban and other standardized amounts;
- An adjustment to ensure budget neutrality as provided for in section 1886(d)(8)(D) of the Act by removing the FY 2000 budget neutrality factor and applying a revised factor;
- An adjustment to apply the revised outlier offset by removing the FY 2000 outlier offsets and applying a new offset; and
- An adjustment in the Puerto Rico standardized amounts to reflect the application of a Puerto Rico-specific wage index.

The standardized amounts set forth in table 1E of section VI of this Addendum, which apply to sole community hospitals, reflect updates of 3.4 percent (that is, the full market basket percentage increase) as provided for in section 406 of Public Law 106–113, but otherwise reflect the same adjustments as the national standardized amounts.

A. Calculation of Adjusted Standardized Amounts

1. Standardization of Base-Year Costs or Target Amounts

Section 1886(d)(2)(A) of the Act required the establishment of base-year cost data containing allowable operating costs per discharge of inpatient hospital services for each hospital. The preamble to the September 1, 1983 interim final rule (48 FR 39763) contains a detailed explanation of how base-year cost data were established in the initial development of standardized amounts for the prospective payment system and how they are used in computing the Federal rates.

Section 1886(d)(9)(B)(i) of the Act required us to determine the Medicare target amounts

for each hospital located in Puerto Rico for its cost reporting period beginning in FY 1987. The September 1, 1987 final rule (52 FR 33043, 33066) contains a detailed explanation of how the target amounts were determined and how they are used in computing the Puerto Rico rates.

The standardized amounts are based on per discharge averages of adjusted hospital costs from a base period or, for Puerto Rico, adjusted target amounts from a base period, updated and otherwise adjusted in accordance with the provisions of section 1886(d) of the Act. Sections 1886(d)(2)(B) and (d)(2)(C) of the Act required us to update base-year per discharge costs for FY 1984 and then standardize the cost data in order to remove the effects of certain sources of cost variations among hospitals. These effects include case-mix, differences in area wage levels, cost-of-living adjustments for Alaska and Hawaii, indirect medical education costs, a payments to hospitals serving a disproportionate share of low-income patients.

Under sections 1886(d)(2)(H) and (d)(3)(E) of the Act, in making payments under the prospective payment system, the Secretary estimates from time to time the proportion of costs that are wages and wage-related costs. Since October 1, 1997, when the market basket was last revised, we have considered 71.1 percent of costs to be labor-related for purposes of the prospective payment system. The average labor share in Puerto Rico is 71.3 percent. We are revising the discharge-weighted national standardized amount for Puerto Rico to reflect the proportion of discharges in large urban and other areas from the FY 1999 MedPAR file.

Comment: One commenter asserted that our labor share of 71.1 percent is overstated and particularly disadvantageous to small rural hospitals. The commenter questioned how we arrived at this percentage when their informal survey of 300 hospitals found none with salaries and benefits in excess of 56 percent of total operating costs. The commenter proposed that HCFA should only recognize costs that are included in the wage index survey on the cost report when recalculating the labor share.

Response: We set forth the latest revision of the labor share calculation in the August 29, 1997 final rule (62 FR 45993) after considering comments in response to our proposal set forth in the June 2, 1997 proposed rule (62 FR 29920). We feel that our current methodology accurately captures, on average, the operating costs faced by hospitals that are affected by local labor markets. It should also be noted that the wage and benefit shares of the prospective payment system's market basket are determined using the wage index survey data provided in the Medicare Cost Reports. However, we will take these comments into consideration when we perform our next periodic revision of the hospital operating market basket.

2. Computing Large Urban and Other Area Averages

Sections 1886(d)(2)(D) and (d)(3) of the Act require the Secretary to compute two average standardized amounts for discharges occurring in a fiscal year: one for hospitals

located in large urban areas and one for hospitals located in other areas. In addition, under sections 1886(d)(9)(B)(iii) and (d)(9)(C)(i) of the Act, the average standardized amount per discharge must be determined for hospitals located in urban and other areas in Puerto Rico. Hospitals in Puerto Rico are paid a blend of 50 percent of the applicable Puerto Rico standardized amount and 50 percent of a national standardized payment amount.

Section 1886(d)(2)(D) of the Act defines "urban area" as those areas within a Metropolitan Statistical Area (MSA). A "large urban area" is defined as an urban area with a population of more than 1 million. In addition, section 4009(i) of Public Law 100-203 provides that a New England County Metropolitan Area (NECMA) with a population of more than 970,000 is classified as a large urban area. As required by section 1886(d)(2)(D) of the Act, population size is determined by the Secretary based on the latest population data published by the Bureau of the Census. Urban areas that do not meet the definition of a "large urban area" are referred to as "other urban areas." Areas that are not included in MSAs are considered "rural areas" under section 1886(d)(2)(D) of the Act. Payment for discharges from hospitals located in large urban areas will be based on the large urban standardized amount. Payment for discharges from hospitals located in other urban and rural areas will be based on the other standardized amount.

Based on 1998 population estimates published by the Bureau of the Census, 61 areas meet the criteria to be defined as large urban areas for FY 2001. These areas are identified by a footnote in Table 4A.

3. Updating the Average Standardized Amounts

Under section 1886(d)(3)(A) of the Act, we update the area average standardized amounts each year. In accordance with section 1886(d)(3)(A)(iv) of the Act, we are updating the large urban areas' and the other areas' average standardized amounts for FY 2001 using the applicable percentage increases specified in section 1886(b)(3)(B)(i) of the Act. Section 1886(b)(3)(B)(i)(XVI) of the Act specifies an update factor for the standardized amounts for FY 2001 equal to the market basket percentage increase minus 1.1 percentage points for hospitals, except sole community hospitals, in all areas. The Act, as amended by section 406 of Public Law 106-113, specifies an update factor equal to the market basket percentage increase for sole community hospitals.

The percentage change in the market basket reflects the average change in the price of goods and services purchased by hospitals to furnish inpatient care. The most recent forecast of the hospital market basket increase for FY 2001 is 3.4 percent. Thus, for FY 2001, the update to the average standardized amounts equals 3.4 percent for sole community hospitals and 2.3 percent for other hospitals.

As in the past, we are adjusting the FY 2000 standardized amounts to remove the effects of the FY 2000 geographic reclassifications and outlier payments before applying the FY 2001 updates. That is,

we are increasing the standardized amounts to restore the reductions that were made for the effects of geographic reclassification and outliers. We then apply the new offsets to the standardized amounts for outliers and geographic reclassifications for FY 2001.

Although the update factors for FY 2001 are set by law, we are required by section 1886(e)(3) of the Act to report to the Congress our initial recommendation of update factors for FY2001 for both prospective payment hospitals and hospitals excluded from the prospective payment system. We have included our final recommendations in Appendix C to this final rule.

4. Other Adjustments to the Average Standardized Amounts

a. Recalibration of DRG Weights and Updated Wage Index—Budget Neutrality Adjustment. Section 1886(d)(4)(C)(iii) of the Act specifies that, beginning in FY 1991, the annual DRG reclassification and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected. As discussed in section II of the preamble, we normalized the recalibrated DRG weights by an adjustment factor, so that the average case weight after recalibration is equal to the average case weight prior to recalibration.

Section 1886(d)(3)(E) of the Act requires us to update the hospital wage index on an annual basis beginning October 1, 1993. This provision also requires us to make any updates or adjustments to the wage index in a manner that ensures that aggregate payments to hospitals are not affected by the change in the wage index.

To comply with the requirement of section 1886(d)(4)(C)(iii) of the Act that DRG reclassification and recalibration of the relative weights be budget neutral, and the requirement in section 1886(d)(3)(E) of the Act that the updated wage index be budget neutral, we used historical discharge data to simulate payments and compared aggregate payments using the FY 2000 relative weights and wage index to aggregate payments using the FY 2001 relative weights and wage index. The same methodology was used for the FY 2000 budget neutrality adjustment. (See the discussion in the September 1, 1992 final rule (57 FR 39832).) Based on this comparison, we computed a budget neutrality adjustment factor equal to 0.997225. We also adjusted the Puerto Rico-specific standardized amounts to adjust for the effects of DRG reclassification and recalibration. We computed a budget neutrality adjustment factor for Puerto Rico-specific standardized amounts equal to 0.999649. These budget neutrality adjustment factors are applied to the standardized amounts without removing the effects of the FY 2000 budget neutrality adjustments. We do not remove the prior budget neutrality adjustment because estimated aggregate payments after the changes in the DRG relative weights and wage index should equal estimated aggregate payments prior to the changes. If we removed the prior year adjustment, we would not satisfy this condition.

In addition, we will continue to apply these same adjustment factors to the hospital-specific rates that are effective for cost

reporting periods beginning in on or after October 1, 2000. (See the discussion in the September 4, 1990 final rule (55 FR 6073).)

b. Reclassified Hospitals—Budget

Neutrality Adjustment. Section 1886(d)(8)(B) of the Act provides that, effective with discharges occurring on or after October 1, 1988, certain rural hospitals are deemed urban. In addition, section 1886(d)(10) of the Act provides for the reclassification of hospitals based on determinations by the Medicare Geographic Classification Review Board (MGCRB). Under section 1886(d)(10) of the Act, a hospital may be reclassified for purposes of the standardized amount or the wage index, or both.

Under section 1886(d)(8)(D) of the Act, the Secretary is required to adjust the standardized amounts so as to ensure that aggregate payments under the prospective payment system after implementation of the provisions of sections 1886(d)(8)(B) and (C) and 1886(d)(10) of the Act are equal to the aggregate prospective payments that would have been made absent these provisions. Section 152(b) of Public Law 106–113 requires reclassifications under that subsection to be treated as reclassifications under section 1886(d)(10) of the Act. To calculate this budget neutrality factor, we used historical discharge data to simulate payments, and compared total prospective payments (including IME and DSH payments) prior to any reclassifications to total prospective payments after reclassifications. In the May 5, 2000 proposed rule, based on these simulations, we applied an adjustment factor of 0.994270 to ensure that the effects of reclassification are budget neutral. The final budget neutrality adjustment factor is 0.993187.

The adjustment factor is applied to the standardized amounts after removing the effects of the FY 2000 budget neutrality adjustment factor. We note that the proposed FY 2001 adjustment reflected wage index and standardized amount reclassifications approved by the MGCRB or the Administrator as of February 29, 2000. The effects of any additional reclassification changes that occurred as a result of appeals and reviews of MGCRB decisions for FY 2001 or hospitals' withdrawal of reclassification requests are reflected in the final budget neutrality adjustment required under section 1886(d)(8)(D) of the Act and published in this final rule.

c. Outliers. Section 1886(d)(5)(A) of the Act provides for payments in addition to the basic prospective payments for "outlier" cases, cases involving extraordinarily high costs (cost outliers). Section 1886(d)(3)(B) of the Act requires the Secretary to adjust both the large urban and other area national standardized amounts by the same factor to account for the estimated proportion of total DRG payments made to outlier cases. Similarly, section 1886(d)(9)(B)(iv) of the Act requires the Secretary to adjust the large urban and other standardized amounts applicable to hospitals in Puerto Rico to account for the estimated proportion of total DRG payments made to outlier cases. Furthermore, under section 1886(d)(5)(A)(iv) of the Act, outlier payments for any year must be projected to be not less than 5

percent nor more than 6 percent of total payments based on DRG prospective payment rates.

i. FY 2001 outlier thresholds. For FY 2000, the fixed loss cost outlier threshold was equal to the prospective payment for the DRG plus \$14,050 (\$12,827 for hospitals that have not yet entered the prospective payment system for capital-related costs). The marginal cost factor for cost outliers (the percent of costs paid after costs for the case exceed the threshold) was 80 percent. We applied an outlier adjustment to the FY 2000 standardized amounts of 0.948859 for the large urban and other areas rates and 0.9402 for the capital Federal rate.

For FY 2001, we proposed to establish a fixed loss cost outlier threshold equal to the prospective payment rate for the DRG plus the IME and DSH payments plus \$17,250 (\$15,763 for hospitals that have not yet entered the prospective payment system for capital-related costs). In addition, we proposed to maintain the marginal cost factor for cost outliers at 80 percent. In setting the final FY 2001 outlier thresholds, we used updated data. In this final rule, we are establishing a fixed loss cost outlier threshold equal to the prospective payment rate for the DRG plus the IME and DSH payments plus \$17,550 (\$16,036 for hospitals that have not yet entered the prospective payment system for capital-related costs). In addition, we are maintaining the marginal cost factor for cost outliers at 80 percent. As we have explained in the past, to calculate outlier thresholds we apply a cost inflation factor to update costs for the cases used to simulate payments. For FY 1999, we used a cost inflation factor of minus 1.724 percent (a cost per case decrease of 1.724 percent). For FY 2000, we used a cost inflation factor of zero percent. To set the proposed FY 2001 outlier thresholds, we used a cost inflation factor of 1.0 percent. We are using a cost inflation actor of 1.8 percent to set the final FY 2001 outlier thresholds. This factor reflects our analysis of the best available cost report data as well as calculations (using the best available data) indicating that the percentage of actual outlier payments for FY 1999 is higher than we projected before the beginning of FY 1999, and that the percentage of actual outlier payments for FY 2000 will likely be higher than we projected before the beginning of FY 2000. The calculations of "actual" outlier payments are discussed below.

ii. Other changes concerning outliers. In accordance with section 1886(d)(5)(A)(iv) of the Act, we calculated outlier thresholds so that outlier payments are projected to equal 5.1 percent of total payments based on DRG prospective payment rates. In accordance with section 1886(d)(3)(E), we reduced the FY 2001 standardized amounts by the same percentage to account for the projected proportion of payments paid to outliers.

As stated in the September 1, 1993 final rule (58 FR 46348), we established outlier thresholds that are applicable to both inpatient operating costs and inpatient capital-related costs. When we modeled the combined operating and capital outlier payments, we found that using a common set of thresholds resulted in a higher percentage

of outlier payments for capital-related costs than for operating costs. We project that the thresholds for FY 2001 will result in outlier payments equal to 5.1 percent of operating DRG payments and 5.9 percent of capital payments based on the Federal rate.

The proposed outlier adjustment factors applied to the standardized amounts for FY 2001 were as follows:

	Operating standardized amounts	Capital federal rate
National	0.948865	0.9416
Puerto Rico	0.975408	0.9709

The final outlier adjustment factors applied to the standardized amounts for FY 2001 are as follows:

	Operating standardized amounts	Capital federal rate
National	0.948908	0.9409
Puerto Rico	0.974791	0.9699

As in the proposed rule, we apply the outlier adjustment factors after removing the effects of the FY 2000 outlier adjustment factors on the standardized amounts.

Table 8A in section VI of this Addendum contains the updated Statewide average operating cost-to-charge ratios for urban hospitals and for rural hospitals to be used in calculating cost outlier payments for those hospitals for which the fiscal intermediary is unable to compute a reasonable hospital-specific cost-to-charge ratio. These Statewide average ratios replace the ratios published in the July 30, 1999 final rule (64 FR 41620). Table 8B contains comparable Statewide average capital cost-to-charge ratios. These average ratios will be used to calculate cost outlier payments for those hospitals for which the fiscal intermediary computes operating cost-to-charge ratios lower than 0.200265 or greater than 1.298686 and capital cost-to-charge ratios lower than 0.01262 greater than 0.16792. This range represents 3.0 standard deviations (plus or minus) from the mean of the log distribution of cost-to-charge ratios for all hospitals. We note that the cost-to-charge ratios in Tables 8A and 8B will be used during FY 2001 when hospital-specific cost-to-charge ratios based on the latest settled cost report are either not available or outside the three standard deviations range.

iii. FY 1999 and FY 2000 outlier payments. In the July 30, 1999 final rule (64 FR 41547), we stated that, based on available data, we estimated that actual

FY 1999 outlier payments would be approximately 6.3 percent of actual total DRG payments. This was computed by simulating payments using the March 1998 bill data available at the time. That is, the estimate of actual outlier payments did not reflect actual FY 1999 bills but instead reflected the application of FY 1999 rates and policies to available FY 1998 bills. Our current estimate, using available FY 1999 bills, indicates that actual outlier payments for FY 1999 were approximately 7.6 percent of actual total DRG payments. We note that the MedPAR file for FY 1999 discharges continues to be updated. Thus, the data indicate that, for FY 1999, the percentage of actual outlier payments relative to actual total payments is higher than we projected before FY 1999 (and thus exceeds the percentage by which we reduced the standardized amounts for FY 1999). In fact, the data indicate that the proportion of actual outlier payments for FY 1999 exceeds 6 percent. Nevertheless, consistent with the policy and statutory interpretation we have maintained since the inception of the prospective payment system, we do not plan to recoup money and make retroactive adjustments to outlier payments for FY 1999.

We currently estimate that actual outlier payments for FY 2000 will be approximately 6.2 percent of actual total DRG payments, higher than the 5.1 percent we projected in setting outlier policies for FY 2000. This estimate is based on simulations using the March 2000 update of the provider-specific file and the March 2000 update of the FY 1999 MedPAR file (discharge data for FY 1999 bills). We used these data to calculate an estimate of the actual outlier percentage for FY 2000 by applying FY 2000 rates and policies to available FY 1999 bills.

Comment: Several commenters opposed the proposed change in the cost outlier fixed loss amount from \$14,050 to \$17,250. The commenters stated that our rationale for this change is that outlier payments were approximately 7.5 percent of total actual DRG payments in FY 1999 and are anticipated to be 6.1 percent in FY 2000. The commenters observed that no additional payments were made in previous years when outlier payments fell below 5.1 percent. The commenters stated that cost outlier thresholds were adjusted as a result of changes made by Public Law 105-33 and that the reason current payments exceed the 5.1 percent target was due to these changes. The commenters also noted that the majority of hospitals did not reap windfall profits on outlier cases, merely mitigated their

losses. The commenters characterized these losses as particularly devastating as they come at a time when MedPAC's analyses show that hospitals' financial performance is deteriorating. One commenter suggested that the Secretary consider acting independently of Congress by lowering the FY 2001 outlier threshold without further reducing the standardized payment amount.

Response: We believe the commenters misunderstood the methodology for calculating the FY 2001 outlier fixed loss amount. Under section 1886(d)(5)(A)(iv) of the Act, we are required to set the outlier threshold at a level such that outlier payments are projected to be not less than 5 percent nor more than 6 percent of total payments based on DRG prospective payment rates. That FY 2000 outlier payments are now anticipated to exceed 5.1 percent of total payments is an indication that costs are rising faster than we predicted when setting the outlier fixed loss amount prior to the beginning of FY 2000. This was one of several factors taken into consideration when we estimated FY 2001 costs to model projected outlier payments for FY 2001. The outlier fixed loss amount is set to meet the aforementioned statutory requirement. Each year we set the outlier thresholds for the upcoming fiscal year by making projections based on the best available data; we do not make the thresholds more stringent simply because current data indicate that, in a previous year, actual outlier payments turned out to be more than we projected when we set the outlier thresholds for that year. Thus, the change in the outlier fixed loss amount from \$14,050 (for FY 2000) to \$17,250 (proposed FY 2001) reflects estimates and projections about costs in FY 2001. We did not increase the outlier fixed loss amount simply because we now expect that actual outlier payments exceed 5.1 percent of actual total DRG payments for FY 1999 and FY 2000 respectively.

We do not concur with the commenters' assertion that changes to the outlier methodology made by Public Law 105-33 caused current outlier payments to exceed 5.1 percent. Public Law 105-33 did not change the statutory requirement that projected outlier payments be between 5 percent and 6 percent of projected total payments based on DRG prospective payment rates. Again, we believe that current outlier payments are greater than expected in part because actual hospital costs may be higher than reflected in the methodology used to set the outlier threshold.

Finally, we believe in the concept of outlier payments as a protection against the financial effects of treating extraordinarily high-cost cases through an offsetting adjustment to the standardized amounts according to the statutory requirements set forth as required in sections 1886(d)(5)(A)(iv) and 1886(d)(3)(E) of the Act. These sections of the Act require that outlier thresholds be calculated so that outlier payments are projected to equal between 5 and 6 percent of total payments based on DRG prospective payment rates and the standardized amounts are to be reduced by the same percentage to account for the projected proportion of payments paid to outliers.

5. FY 2001 Standardized Amounts

The adjusted standardized amounts are divided into labor and nonlabor portions. Table 1A (Table 1E for sole community hospitals) contains the two national standardized amounts that are applicable to all hospitals, except hospitals in Puerto Rico. Under section 1886(d)(9)(A)(ii) of the Act, the Federal portion of the Puerto Rico payment rate is based on the discharge-weighted average of the national large urban standardized amount and the national other standardized amount (as set forth in Table 1A). The labor and nonlabor portions of the national average standardized amounts for Puerto Rico hospitals are set forth in Table 1C. This table also includes the Puerto Rico standardized amounts.

B. Adjustments for Area Wage Levels and Cost of Living

Tables 1A, 1C and 1E, as set forth in this Addendum, contain the labor-related and nonlabor-related shares used to calculate the prospective payment rates for hospitals located in the 50 States, the District of Columbia, and Puerto Rico. This section addresses two types of adjustments to the standardized amounts that are made in determining the prospective payment rates as described in this Addendum.

1. Adjustment for Area Wage Levels

Sections 1886(d)(3)(E) and 1886(d)(9)(C)(iv) of the Act require that we make an adjustment to the labor-related portion of the prospective payment rates to account for area differences in hospital wage levels. This adjustment is made by multiplying the labor-related portion of the adjusted standardized amounts by the appropriate wage index for the area in which the hospital is located. In section III of this preamble, we discuss the data and methodology for the FY 2001 wage index. The wage index is set forth in

Tables 4A through 4F of this Addendum.

2. Adjustment for Cost-of-Living in Alaska and Hawaii

Section 1886(d)(5)(H) of the Act authorizes an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States are taken into account in the adjustment for area wages described above. For FY 2001, we are adjusting the payments for hospitals in Alaska and Hawaii by multiplying the nonlabor portion of the standardized amounts by the appropriate adjustment factor contained in the table below.

TABLE OF COST-OF-LIVING ADJUSTMENT FACTORS, ALASKA AND HAWAII HOSPITALS

Alaska:	
All areas	1.25
Hawaii:	
County of Honolulu	1.25
County of Hawaii	1.15
County of Kauai	1.225
County of Maui	1.225
County of Kalawao	1.225

The above factors are based on data obtained from the U.S. Office of Personnel Management.

C. DRG Relative Weights

As discussed in section II of the preamble, we have developed a classification system for all hospital discharges, assigning them into DRGs, and have developed relative weights for each DRG that reflect the resource utilization of cases in each DRG relative to Medicare cases in other DRGs. Table 5 of section VI of this Addendum contains the relative weights that we will use for discharges occurring in FY 2001. These factors have been recalibrated as explained in section II of the preamble.

D. Calculation of Prospective Payment Rates for FY 2001

General Formula for Calculation of Prospective Payment Rates for FY 2001

The prospective payment rate for all hospitals located outside of Puerto Rico except sole community hospitals and Medicare-dependent, small rural hospitals = Federal rate.

The prospective payment rate for sole community hospitals = whichever of the following rates yields the greatest aggregate payment: The Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if the sole community hospital was paid for

its cost reporting period beginning during FY 1999 on the basis of either its FY 1982 or FY 1987 hospital-specific rate and elects rebasing, 25 percent of its updated hospital-specific rate based on FY 1996 cost per discharge plus 75 percent of its updated FY 1982 or FY 1987 hospital-specific rate.

Prospective payment rate for Medicare-dependent, small rural hospitals = 100 percent of the Federal rate, or, if the greater of the updated FY 1982 hospital-specific rate or the updated FY 1987 hospital-specific rate is higher than the Federal rate, 100 percent of the Federal rate plus 50 percent of the difference between the applicable hospital-specific rate and the Federal rate.

Prospective payment rate for Puerto Rico = 50 percent of the Puerto Rico rate + 50 percent of a discharge-weighted average of the national large urban standardized amount and the Federal national other standardized amount.

1. Federal Rate

For discharges occurring on or after October 1, 2000 and before October 1, 2001, except for sole community hospitals, Medicare-dependent, small rural hospitals and hospitals in Puerto Rico, the hospital's payment is based exclusively on the Federal national rate.

The payment amount is determined as follows:

Step 1—Select the appropriate national standardized amount considering the type of hospital and designation of the hospital as large urban or other (see Table 1A or 1E1 in section VI of this Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the applicable wage index for the geographic area in which the hospital is located (see Tables 4A, 4B, and 4C of section VI of this Addendum).

Step 3—For hospitals in Alaska and Hawaii, multiply the nonlabor-related portion of the standardized amount by the appropriate cost-of-living adjustment factor.

Step 4—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount (adjusted, if appropriate, under Step 3).

Step 5—Multiply the final amount from Step 4 by the relative weight corresponding to the appropriate DRG (see Table 5 of section VI of this Addendum).

2. Hospital-Specific Rate (Applicable Only to Sole Community Hospitals and Medicare-Dependent, Small Rural Hospitals)

Section 1886(b)(3)(C) of the Act, as amended by section 405 of Public Law

106–113, provides that sole community hospitals are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if the sole community hospital was paid for its cost reporting period beginning during FY 1999 on the basis of either its FY 1982 or FY 1987 hospital-specific rate and elects rebasing, 25 percent of its updated hospital-specific rate based on FY 1996 cost per discharge plus 75 percent of the updated FY 1982 or FY 1987 hospital-specific rate.

Section 1886(d)(5)(G) of the Act, as amended by section 404 of Public Law 106–113, provides that Medicare-dependent, small rural hospitals are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal rate or the Federal rate plus 50 percent of the difference between the Federal rate and the greater of the updated hospital-specific rate based on FY 1982 and FY 1987 cost per discharge.

Hospital-specific rates have been determined for each of these hospitals based on either the FY 1982 cost per discharge, the FY 1987 cost per discharge or, for qualifying sole community hospitals, the FY 1996 cost per discharge. For a more detailed discussion of the calculation of the hospital-specific rates, we refer the reader to the September 1, 1983 interim final rule (48 FR 39772); the April 20, 1990 final rule with comment (55 FR 15150); and the September 4, 1990 final rule (55 FR 35994).

a. *Updating the FY 1982 and FY 1987 Hospital-Specific Rates for FY 2001.* We are increasing the hospital-specific rates by 3.4 percent (the hospital market basket rate of increase) for sole community hospitals and by 2.3 percent (the hospital market basket percentage increase minus 1.1 percentage points) for Medicare-dependent, small rural hospitals for FY 2001. Section 1886(b)(3)(C)(iv) of the Act provides that the update factor applicable to the hospital-specific rates for sole community hospitals equal the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for sole community hospitals in FY 2001, is the market basket rate of increase. Section 1886(b)(3)(D) of the Act provides that the update factor applicable to the hospital-specific rates for Medicare-dependent, small rural hospitals equal the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for FY 2001, is the

market basket rate of increase minus 1.1 percentage points.

b. Calculation of Hospital-Specific Rate. For sole community hospitals, the applicable FY 2001 hospital-specific rate is the greater of the following: the hospital-specific rate for the preceding fiscal year, increased by the applicable update factor (3.4 percent); or, if the hospital qualifies to rebase its hospital-specific rate based on cost per case in FY 1996 and elects rebasing, 75 percent of the hospital-specific rate for the preceding fiscal year, increased by the applicable update factor, plus 25 percent of its rebased FY 1996 hospital-specific rate updated through FY 2001. For Medicare-dependent, small rural hospitals, the applicable FY 2001 hospital-specific rate is calculated by increasing the hospital's hospital-specific rate for the preceding fiscal year by the applicable update factor (2.3 percent), which is the same as the update for all prospective payment hospitals, except sole community hospitals. In addition, the hospital-specific rate is adjusted by the budget neutrality adjustment factor (that is, 0.997225) as discussed in section II.A.4.a. of this Addendum. The resulting rate is used in determining under which rate a sole community hospital or Medicare-dependent, small rural hospital is paid for its discharges beginning on or after October 1, 2000, based on the formula set forth above.

3. General Formula for Calculation of Prospective Payment Rates for Hospitals Located in Puerto Rico Beginning on or After October 1, 2000 and Before October 1, 2001

a. Puerto Rico Rate. The Puerto Rico prospective payment rate is determined as follows:

Step 1—Select the appropriate adjusted average standardized amount considering the large urban or other designation of the hospital (see Table 1C of section VI of the Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the appropriate Puerto Rico-specific wage index (see Table 4F of section VI of the Addendum).

Step 3—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount.

Step 4—Multiply the result in Step 3 by 50 percent.

Step 5—Multiply the amount from Step 4 by the appropriate DRG relative weight (see Table 5 of section VI of the Addendum).

b. National Rate. The national prospective payment rate is determined as follows:

Step 1—Multiply the labor-related portion of the national average standardized amount (see Table 1C of section VI of the Addendum) by the appropriate national wage index (see Tables 4A and 4B of section VI of the Addendum).

Step 2—Add the amount from Step 1 and the nonlabor-related portion of the national average standardized amount.

Step 3—Multiply the result in Step 2 by 50 percent.

Step 4—Multiply the amount from Step 3 by the appropriate DRG relative weight (see Table 5 of section VI of the Addendum).

The sum of the Puerto Rico rate and the national rate computed above equals the prospective payment for a given discharge for a hospital located in Puerto Rico.

III. Changes to the Payment Rates for Blood Clotting Factor for Hemophilia Inpatients

For the past 2 years in the **Federal Register** (63 FR 41010 and 64 FR 41549), we have discussed section 4452 of Public Law 105-33, which amended section 6011(d) of Public Law 101-239 to reinstate the add-on payment for the costs of administering blood clotting factor to Medicare beneficiaries who have hemophilia and who are hospital inpatients for discharges occurring on or after October 1, 1997. In these prior rules, we have described the payment policy that the payment amount for clotting factors covered by this inpatient benefit is equal to 85 percent of the AWP, subject to the Part A deductible and coinsurance requirements, and specifically listed the updated add-on payment amounts for each clotting factor, as described by HCFA's Common Procedure Coding System (HCPCS). Because we are not changing the policy established 2 years ago, we are discontinuing the practice of listing these amounts in the annual proposed and final rules. Instead, the program manuals will instruct fiscal intermediaries to follow this policy and obtain the average wholesale price (AWP) for each relevant HCPCS from either their corresponding local carrier or the Medicare durable medical equipment regional carrier (DMERC) that has jurisdiction in their area. Carriers already calculate the AWP based on the median AWP of the several products available in each category of factor.

The payment amounts will be determined using the most recent AWP data available to the carrier at the time the intermediary performs these annual update calculations.

These amounts are updated annually and are effective for discharges beginning on or after October 1 of the current year through September 30 of the following year. Payment will be made for blood clotting factor only if there is an ICD-9-CM diagnosis code for hemophilia included on the bill.

Comment: One commenter disagreed with our proposal to have individual Medicare contractors determine the payment allowance for the pass-through amount payable for clotting factors for inpatients with hemophilia. The commenter stated that individual Medicare contractors would not maintain a uniform payment amount and this inconsistency would result in wide disparities in reimbursement. The commenter recommended that HCFA continue to set a standard national rate that would be the same for everyone. The commenter also expressed concern that updates in payment allowances for clotting factors would vary widely among contractors.

Response: We continue to believe that our carriers are the most appropriate entities to obtain the AWP for these factors, and are therefore proceeding with our proposed change. While we do not anticipate inconsistency in the payment allowances for these products around the country, we do not want to jeopardize access to these essential biologicals for Medicare beneficiaries who are hemophiliacs. Therefore, we have determined that a more appropriate approximation for the cost of clotting factor furnished on an inpatient basis is 95 percent of the AWP, consistent with the Part B benefit for the same factors. This increase from 85 percent to 95 percent of the AWP will assure access despite possible Medicare contractor variations in the applicable AWP.

IV. Changes to Payment Rates for Inpatient Capital-Related Costs for FY 2001

The prospective payment system for hospital inpatient capital-related costs was implemented for cost reporting periods beginning on or after October 1, 1991. Effective with that cost reporting period and during a 10-year transition period extending through FY 2001, hospital inpatient capital-related costs are paid on the basis of an increasing proportion of the capital prospective payment system Federal rate and a decreasing proportion of a hospital's historical costs for capital.

The basic methodology for determining capital Federal prospective rates is set forth at §§ 412.308 through 412.352. Below we discuss the factors that we used to determine the capital

Federal rate and the hospital-specific rates and the hospital-specific rates for FY 2001. The rates will be effective for discharges occurring on or after October 1, 2000.

For FY 1992, we computed the standard Federal payment rate for capital-related costs under the prospective payment system by updating the FY 1989 Medicare inpatient capital cost per case by an actuarial estimate of the increase in Medicare inpatient capital costs per case. Each year after FY 1992, we update the standard capital Federal rate, as provided in § 412.308(c)(1), to account for capital input price increases and other factors. Also, § 412.308(c)(2) provides that the capital Federal rate is adjusted annually by a factor equal to the estimated proportion of outlier payments under the capital Federal rate to total capital payments under the capital Federal rate. In addition, § 412.308(c)(3) requires that the capital Federal rate be reduced by an adjustment factor equal to the estimated proportion of payments for exceptions under § 412.348. Furthermore, § 412.308(c)(4)(ii) requires that the capital Federal rate be adjusted so that the annual DRG reclassification and the recalibration of DRG weights and changes in the geographic adjustment factor are budget neutral. For FYs 1992 through 1995, § 412.352 required that the capital Federal rate also be adjusted by a budget neutrality factor so that aggregate payments for inpatient hospital capital costs were projected to equal 90 percent of the payments that would have been made for capital-related costs on a reasonable cost basis during the fiscal year. That provision expired in FY 1996. Section 412.308(b)(2) describes the 7.4 percent reduction to the rate that was made in FY 1994, and § 412.308(b)(3) describes the 0.28 percent reduction to the rate made in FY 1996 as a result of the revised policy of paying for transfers. In the FY 1998 final rule with comment period (62 FR 45966), we implemented section 4402 of Public Law 105-33, which requires that for discharges occurring on or after October 1, 1997, and before October 1, 2002, the unadjusted standard capital Federal rate is reduced by 17.78 percent. A small part of that reduction will be restored effective October 1, 2002.

For each hospital, the hospital-specific rate was calculated by dividing the hospital's Medicare inpatient capital-related costs for a specified base year by its Medicare discharges (adjusted for transfers), and dividing the result by the hospital's case mix index (also adjusted for transfers). The

resulting case-mix adjusted average cost per discharge was then updated to FY 1992 based on the national average increase in Medicare's inpatient capital cost per discharge and adjusted by the exceptions payment adjustment factor and the budget neutrality adjustment factor to yield the FY 1992 hospital-specific rate. Since FY 1992, the hospital-specific rate has been updated annually for inflation and for changes in the exceptions payment adjustment factor. For FYs 1992 through 1995, the hospital-specific rate was also adjusted by a budget neutrality adjustment factor. Section 4402 of Public Law 105-33 also requires that for discharges occurring on or after October 1, 1997, and before October 1, 2002, the unadjusted hospital-specific rate is reduced by 17.78 percent. A small part of this reduction will be restored effective October 1, 2002.

To determine the appropriate budget neutrality adjustment factor and the exceptions payment adjustment factor, we developed a dynamic model of Medicare inpatient capital-related costs, that is, a model that projects changes in Medicare inpatient capital-related costs over time. With the expiration of the budget neutrality provision, the model is still used to estimate the exceptions payment adjustment and other factors. The model and its application are described in greater detail in Appendix B of this final rule.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, as a result of section 4406 of Public Law 105-33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the capital Federal rate.

Section 412.374 provides for the use of this blended payment system for payments to Puerto Rico hospitals under

the prospective payment system for inpatient capital-related costs. Accordingly, for capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital.

A. Determination of Federal Inpatient Capital-Related Prospective Payment Rate Update

In the July 30, 1999 final rule (64 FR 41551), we established a capital Federal rate of \$377.03 for FY 2000. In the proposed rule, we stated that, as a result of the changes we proposed to the factors used to establish the capital Federal rate, the proposed FY 2001 capital Federal rate was \$383.06. In this final rule, we are establishing a FY 2001 capital Federal rate of \$382.03.

In the discussion that follows, we explain the factors that were used to determine the FY 2001 capital Federal rate. In particular, we explain why the FY 2001 capital Federal rate has increased 1.33 percent compared to the FY 2000 capital Federal rate. We also estimate aggregate capital payments will increase by 5.48 percent during this same period. This increase is primarily due to the increase in the number of hospital admissions, the increase in case-mix, and the increase in the Federal blend percentage from 90 to 100 percent for fully prospective payment hospitals.

Total payments to hospitals under the prospective payment system are relatively unaffected by changes in the capital prospective payments. Since capital payments constitute about 10 percent of hospital payments, a 1 percent change in the capital Federal rate yields only about 0.1 percent change in actual payments to hospitals. Aggregate payments under the capital prospective payment transition system are estimated to increase in FY 2001 compared to FY 2000.

1. Standard Capital Federal Rate Update

a. Description of the Update Framework. Under § 412.308(c)(1), the standard capital Federal rate is updated on the basis of an analytical framework that takes into account changes in a capital input price index and other factors. The update framework consists of a capital input price index (CIPI) and several policy adjustment factors. Specifically, we have adjusted the projected CIPI rate of increase as appropriate each year for case-mix index-related changes, for intensity, and for errors in previous CIPI forecasts. The proposed rule reflected an update factor for FY 2001 under that framework of 0.9 percent, based on data available at that

time. Under the update framework, the final update factor for FY 2001 is 0.9 percent. This update factor is based on a projected 0.9 percent increase in the CIPI, a 0.0 percent adjustment for intensity, a 0.0 percent adjustment for case-mix, a 0.0 percent adjustment for the FY 1999 DRG reclassification and recalibration, and a forecast error correction of 0.0 percent. We explain the basis for the FY 2001 CIPI projection in section II.D of this Addendum. In this section IV of the Addendum, we describe the policy adjustments that have been applied.

The case-mix index is the measure of the average DRG weight for cases paid under the prospective payment system. Because the DRG weight determines the prospective payment for each case, any percentage increase in the case-mix index corresponds to an equal percentage increase in hospital payments.

The case-mix index can change for any of several reasons:

- The average resource use of Medicare patients changes (“real” case-mix change);
- Changes in hospital coding of patient records result in higher weight DRG assignments (“coding effects”); and
- The annual DRG reclassification and recalibration changes may not be budget neutral (“reclassification effect”).

We define real case-mix change as actual changes in the mix (and resource requirements) of Medicare patients as opposed to changes in coding behavior that result in assignment of cases to higher weighted DRGs but do not reflect higher resource requirements. In the update framework for the prospective payment system for operating costs, we adjust the update upwards to allow for real case-mix change, but remove the effects of coding changes on the case-mix index. We also remove the effect on total payments of prior changes to the DRG classifications and relative weights, in order to retain budget neutrality for all case-mix index-related changes other than patient severity. (For example, we adjusted for the effects of the FY 1999 DRG reclassification and recalibration as part of our FY 2001 update recommendation.) We have adopted this case-mix index adjustment in the capital update framework as well.

For FY 2001, we are projecting a 0.5 percent increase in the case-mix index. We estimate that real case-mix increase will equal 0.5 percent in FY 2001. Therefore, the net adjustment for case-mix change in FY 2001 is 0.0 percentage points.

Comment: One commenter stated that the magnitude of the upward

adjustment of 0.5 percent for real case-mix change and the downward adjustment of 0.5 percent for projected case-mix change (a net case-mix adjustment of 0.0 percent) for FY 2001 appears inconsistent with past numbers published by HCFA. They recommend that we review our adjustment for case-mix and provide a basis for these adjustment amounts.

Response: HCFA’s Office of the Actuary estimates the projection of total case-mix changes used in the capital and operating update frameworks. The estimate of case-mix change for FY 2001 is the same as the estimate of case-mix change for FY 2000 published in the July 30, 1999 final rule (64 FR 41551). This estimate of case-mix change for FY 2001 is also very close to what has been used for the past 5 years. Past estimates of case-mix change have always assumed that most of the case-mix change will be real, and therefore the net adjustments for case-mix change have always been small or zero. Again this year, our estimate assumes the same kind of relationship. Therefore, we believe that our projection of a 0.5 percent increase in the case-mix index and our estimate that real case-mix increase will equal 0.5 percent (for a net case-mix adjustment of 0.0 percent) in FY 2001 is consistent with past case-mix change update recommendations. As more experience develops we may be able to develop a better estimate of the real part of the case-mix increase.

We estimate that FY 1999 DRG reclassification and recalibration will result in a 0.0 percent change in the case-mix when compared with the case-mix index that would have resulted if we had not made the reclassification and recalibration changes to the DRGs. Therefore, we are making a 0.0 percent adjustment for DRG reclassification and recalibration in the update recommendation for FY 2001.

The capital update framework contains an adjustment for forecast error. The input price index forecast is based on historical trends and relationships ascertainable at the time the update factor is established for the upcoming year. In any given year there may be unanticipated price fluctuations that may result in differences between the actual increase in prices and the forecast used in calculating the update factors. In setting a prospective payment rate under the framework, we make an adjustment for forecast error only if our estimate of the change in the capital input price index for any year is off by 0.25 percentage points or more. There is a 2-year lag between the forecast and the measurement of the forecast error. A forecast error of 0.0 percentage points

was calculated for the FY 1999 update. That is, current historical data indicate that the FY 1999 CIPI used in calculating the forecasted FY 1999 update factor did not overstate or understate realized price increases. We therefore are making a 0.0 percent adjustment for forecast error in the update for FY 2001.

Under the capital prospective payment system framework, we also make an adjustment for changes in intensity. We calculate this adjustment using the same methodology and data as in the framework for the operating prospective payment system. The intensity factor for the operating update framework reflects how hospital services are utilized to produce the final product, that is, the discharge. This component accounts for changes in the use of quality-enhancing services, changes in within-DRG severity, and expected modification of practice patterns to remove cost-ineffective services.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. The use of total charges in the calculation of the proposed intensity factor makes it a total intensity factor, that is, charges for capital services are already built into the calculation of the factor. Therefore, we have incorporated the intensity adjustment from the operating update framework into the capital update framework. Without reliable estimates of the proportions of the overall annual intensity increases that are due, respectively, to ineffective practice patterns and to the combination of quality-enhancing new technologies and within-DRG complexity, we assume, as in the revised operating update framework, that one-half of the annual increase is due to each of these factors. The capital update framework thus provides an add-on to the input price index rate of increase of one-half of the estimated annual increase in intensity to allow for within-DRG severity increases and the adoption of quality-enhancing technology.

For FY 2001, we have developed a Medicare-specific intensity measure based on a 5-year average using FY 1995 through 1999 data. In determining case-mix constant intensity, we found that observed case-mix increase was 1.7 percent in FY 1995, 1.6 percent in FY 1996, 0.3 percent in FY 1997, -0.4 percent in FY 1998, and -0.3 percent in FY 1999. For FY 1995 and FY 1996, we estimate that real case-mix increase was 1.0 to 1.4 percent each year. The estimate for those years is supported by

past studies of case-mix change by the RAND Corporation. The most recent study was "Has DRG Creep Crept Up? Decomposing the Case Mix Index Change Between 1987 and 1988" by G. M. Carter, J. P. Newhouse, and D. A. Relles, R-4098-HCFA/ProPAC (1991). The study suggested that real case-mix change was not dependent on total change, but was usually a fairly steady 1.0 to 1.5 percent per year. We use 1.4 percent as the upper bound because the RAND study did not take into account that hospitals may have induced doctors to document medical records more completely in order to improve payment. Following that study, we consider up to 1.4 percent of observed case-mix change as real for FY 1995 through FY 1999. Based on this analysis, we believe that all of the observed case-mix increase for FY 1997, FY 1998, and FY 1999 is real. The increases for FY 1995 and FY 1996 were in excess of our estimate of real case-mix increase.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. Given estimates of real case-mix of 1.0 percent for FY 1995, 1.0 percent for FY 1996, 0.3 percent for FY 1997, -0.4 percent for FY 1998, and -0.3 percent for FY 1999, we estimate that case-mix constant intensity declined by an average 0.7 percent during FYs 1995 through 1999, for a cumulative decrease of 3.6 percent. If we assume that real case-mix increase was 1.4 percent for FY 1995, 1.4 percent for FY 1996, 0.3 percent for FY 1997, -0.4 percent for FY 1998, and -0.3 percent for FY 1999, we estimate that case-mix constant intensity declined by an average 0.9 percent during FYs 1995 through 1999, for a cumulative decrease of 4.5 percent. Since we estimate that intensity has declined during that period, we are recommending a 0.0 percent intensity adjustment for FY 2001.

We note that the operating recommendation addressed in Appendix C of this final rule reflects the possible range that a negative adjustment could span (-0.6 percent to 0.0 percent adjustment) based on our analyses that intensity has declined during that 5-year period. While the calculation of the adjustment for intensity is identical in both the capital and the operating update frameworks, consistent with past capital update recommendations and the FY 2001 operating recommendation, we did not make a negative adjustment for intensity in the FY 2001 capital update.

b. Comparison of HCFA and MedPAC Update Recommendations. MedPAC's FY 2001 update recommendation for capital prospective payments was not included in its March 2000 Report to Congress. In the May 5, 2000 proposed rule, we stated that we would address the comparison of HCFA's update recommendation and MedPAC's update recommendation in this final rule, once we have had the opportunity to review the data analyses that substantiate MedPAC's recommendation.

In its June 2000 Report to Congress, MedPAC presented a combined operating and capital update for hospital inpatient prospective payment system payments for FY 2001, and recommended that Congress implement a single combined (operating and capital) prospective payment system rate. With the end of the transition to fully prospective capital payments ending with FY 2001, both operating and capital prospective system payments will be made using standard Federal rates adjusted by hospital specific payment variables. Currently, section 1886(b)(3)(B)(i)(XVI) of the Act sets forth the FY 2001 percentage increase in the prospective payment system operating cost standardized amounts. The prospective payment system capital update is set under the framework established by the Secretary outlined in § 412.308(c)(1).

For FY 2001, MedPAC's update framework supports a combined operating and capital update for hospital inpatient prospective payment system payments of 3.5 percent to 4.0 percent (or between the increase in the combined operating and capital market basket plus 0.6 percentage points and the increase in the combined operating and capital market basket plus 1.1 percentage points). MedPAC also notes that while the number of hospitals with negative inpatient hospital margins has increased in FY 1998 (mostly likely as the result of the implementation of Pub. L. 105-33), overall high inpatient Medicare margins generally offset hospital losses on other lines of Medicare services. MedPAC continues to project positive (greater than 11 percentage points) Medicare inpatient hospital margins through FY 2002.

MedPAC's FY 2001 combined operating and capital update framework uses a weighted average of HCFA's forecasts of the operating (PPS Input Price Index) and capital (CIPI) market baskets. This combined market basket is used to develop an estimate of the change in overall operating and capital prices. MedPAC calculated a combined market basket forecast by weighting the operating market basket forecast by 0.92

and the capital market basket forecast by 0.08, since operating costs are estimated to represent 92 percent of total hospital costs (capital costs are estimated to represent the remaining 8 percent of total hospital costs). MedPAC's combined market basket for FY 2001 is estimated to increase by 2.9 percent, based on HCFA's March 2000 forecasted operating market basket increase of 3.1 percent and HCFA's March 2000 forecasted capital market basket increase of 0.9 percent.

HCFA's Response to MedPAC's Recommendation: As we stated in the May 5, 2000 proposed rule (65 FR 26317), we responded to a similar comment in the July 30, 1999 final rule (64 FR 41552), the July 31, 1998 final rule (63 FR 41013), and the September 1, 1995 final rule (60 FR 45816). In those rules, we stated that our long-term goal was to develop a single update framework for operating and capital prospective payments and that we would begin development of a unified framework. However, we have not yet developed such a single framework as the actual operating system update has been determined by Congress through FY 2002. In the meantime, we intend to maintain as much consistency as possible with the current operating framework in order to facilitate the eventual development of a unified framework. We maintain our goal of combining the update frameworks at the end of the 10-year capital transition period (the end of FY 2001) and may examine combining the payment systems post-transition. Because of the similarity of the update frameworks, we believe that they could be combined with little difficulty.

Our recommendation for updating the prospective payment system capital Federal rate is supported by the following analyses that measure changes in scientific and technological advances, practice pattern changes, changes in case-mix, the effect of reclassification and recalibration, and forecast error correction. MedPAC recommends a 3.5 to 4.0 percent combined operating and capital update for hospital inpatient prospective payments. Under our existing capital update framework, we are recommending a 0.9 percent update to the capital Federal rate. For purposes of comparing HCFA's capital update recommendation and MedPAC's update recommendation for FY 2001, we have isolated the capital component of MedPAC's combined market basket forecast, which was based on HCFA's March 2000 CIPI forecast of 0.9 percent. As a result, MedPAC's update recommendation for FY 2001 for capital

payments is between 1.4 percent and 1.9 percent (see Table 1).

There are some differences between HCFA's and MedPAC's update frameworks, which account for the difference in the respective update recommendations. In its combined FY 2001 update recommendation, MedPAC uses HCFA's capital input price index (the CIPI) as the starting point for estimating the change in prices since the previous year. HCFA's CIPI includes price measures for interest expense, which are an indicator of the interest rates facing hospitals during their capital purchasing decisions. Previously, MedPAC's capital market basket did not include interest expense; instead it included a financing policy adjustment when necessary to account for the prolonged changes in interest rates. HCFA's CIPI is vintage-weighted, meaning that it takes into account price changes from past purchases of capital when determining the current period update. In the past, MedPAC's capital market basket was not vintage-weighted, and only accounted for the current year price changes. This year, both HCFA's and MedPAC's FY 2001 update frameworks use HCFA's CIPI, which is currently forecast at 0.9 percent.

MedPAC and HCFA also differ in the adjustments they make in their respective frameworks. (See Table 1 for a comparison of HCFA and MedPAC's update recommendations.) MedPAC makes an adjustment for scientific and technological advances, which is offset by a fixed standard for productivity growth. HCFA has not adopted a separate adjustment for capital science and technology or productivity and efficiency. Instead, we have identified a total intensity factor, which reflects scientific and technological advances, but we have not identified an adequate total productivity measure. The Commission also includes a site-of-care substitution adjustment (unbundling of the payment unit) to account for the decline in the average length of Medicare acute inpatient stays. This adjustment is designed to shift funding along with associated costs when

Medicare patients are discharged to postacute settings that replace acute inpatient days. Other factors, such as technological advances that allow for a decreased need in follow-up care and BBA mandated policy on payment for transfer cases that limits payments within certain DRGs, are reflected in the site-of-care substitution adjustment as well. A negative intensity adjustment would capture the site-of-care substitution accounted for in MedPAC's update framework. However, we did not make a negative adjustment for intensity this year. We may examine the appropriateness of adopting a negative intensity adjustment at a later date.

For FY 2001, MedPAC recommends a 0.0 percent combined adjustment for site-of-care substitutions. MedPAC recommends a 0.0 to a 0.5 percent combined adjustment for scientific and technological advances, which was offset by a fixed productivity standard of 0.5 percent for FY 2001. We recommend a 0.0 percent intensity adjustment.

Additionally, MedPAC has included an adjustment for one-time factors to account for significant costs incurred by hospitals for unusual, non-recurring events or for the costs of major new regulatory requirements. The Commission is not recommending any additional allowance for FY 2001 and recommends a 0.0 percent combined adjustment for one-time factors for FY 2001.

MedPAC makes a two-part adjustment for case-mix changes, which takes into account changes in case-mix in the past year. They recommend a 0.5 percent combined adjustment for DRG coding change and a 0.0 percent combined adjustment for within-DRG complexity change. This results in a combined total case mix adjustment of 0.5 percent. We recommend a 0.0 percent total case-mix adjustment, since we are projecting a 0.5 percent increase in the case-mix index and we estimate that real case-mix increase will equal 0.5 percent in FY 2001.

We recommend a 0.0 percent adjustment for forecast error correction.

MedPAC's combined FY 2001 update recommendation includes a 0.1 percent adjustment for forecast error correction. However, they noted that this forecast error adjustment is a result of the difference between the forecasted FY 1999 operating market basket of 2.4 percent and the actual FY 1999 operating market basket increase of 2.5 percent. The FY 1999 capital market basket forecast was equal to the actual observed increase of 0.7 percent for capital costs. Therefore, we have included 0.0 percent adjustment for FY 1999 forecast error correction in the comparison of MedPAC's and HCFA's update recommendations for FY 2001 shown below in Table 1.

We applied MedPAC's ratio of hospital capital costs to total hospital costs (8 percent) to the adjustment factors in their update framework for comparison with HCFA's capital update framework. The net result of these adjustments is that MedPAC has recommended a 0.9 to 1.0 percent update to the capital Federal rate for FY 2001. MedPAC believes that the annual updates to the capital and operating payments under the prospective payment system should not differ substantially, even though they are determined separately, since they correspond to costs generated by providing the same inpatient hospital services to the same Medicare patients. We describe the basis for our 0.9 percent total capital update for FY 2001 in the preceding section. While our recommendation is below the range recommended by MedPAC, in past years our update recommendation has been above the lower limit of MedPAC's update recommendation. For instance, for FY 2000 MedPAC's update recommendation was -1.1 percent to 1.8 percent. HCFA's FY 2000 update factor was 0.3 percent, which is 1.4 percentage points higher than the lower limit of MedPAC's update recommendation. For FY 2001, our update 0.9 percent is only 0.5 percentage points below MedPAC's lower limit of their recommendation.

TABLE 1.—HCFA'S FY 2001 UPDATE FACTOR AND MEDPAC'S RECOMMENDATION

	HCFA's update factor	MedPAC's recommendation
Capital Input Price Index	0.9	0.9 ¹
Policy Adjustment Factors		
Intensity	0.0	
Science and Technology		0.0 to 0.5
Intensity		(²)

TABLE 1.—HCFA'S FY 2001 UPDATE FACTOR AND MEDPAC'S RECOMMENDATION—Continued

	HCFA's update factor	MedPAC's recommendation
Real within DRG Change .....	.....	(³)
Site-of-Care Substitution .....	.....	0.0
Subtotal	0.0	0.0 to 0.5
Case-Mix Adjustment Factors		
Projected Case-Mix Change	-0.5	
Real Across DRG Change	0.5	
Coding Change .....	.....	0.5
Real within DRG Change	⁴	0.0
Subtotal	0.0	0.5
One-Time Factors .....	.....	0.0
Effect of FY 1998 Reclassification and Recalibration	0.0	
Forecast Error Correction	0.0	0.0
Total Update	0.9	1.4 to 1.9

¹ Used HCFA's March 2000 capital market basket forecast in its combined update recommendations.

² Included in MedPAC's productivity offset in its science and technology adjustment.

³ Included in MedPAC's case-mix adjustment.

⁴ Included in HCFA's intensity factor.

2. Outlier Payment Adjustment Factor

Section 412.312(c) establishes a unified outlier methodology for inpatient operating and inpatient capital-related costs. A single set of thresholds is used to identify outlier cases for both inpatient operating and inpatient capital-related payments. Outlier payments are made only on the portion of the capital Federal rate that is used to calculate the hospital's inpatient capital-related payments (for example, 100 percent for cost reporting periods beginning in FY 2001 for hospitals paid under the fully prospective payment methodology). Section 412.308(c)(2) provides that the standard Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of outlier payments under the capital Federal rate to total inpatient capital-related payments under the capital Federal rate. The outlier thresholds are set so that operating outlier payments are projected to be 5.1 percent of total operating DRG payments. The inpatient capital-related outlier reduction factor reflects the inpatient capital-related outlier payments that would be made if all hospitals were paid 100 percent of the capital Federal rate. For purposes of calculating the outlier thresholds and the outlier reduction factor, we model payments as if all hospitals were paid 100 percent of the capital Federal rate because, as explained above, outlier

payments are made only on the portion of the capital Federal rate that is included in the hospital's inpatient capital-related payments.

In the July 30, 1999 final rule, we estimated that outlier payments for capital in FY 2000 would equal 5.98 percent of inpatient capital-related payments based on the capital Federal rate (64 FR 41553). Accordingly, we applied an outlier adjustment factor of 0.9402 to the capital Federal rate. Based on the thresholds as set forth in section II.A.4.d. of this Addendum, we estimate that outlier payments for capital will equal 5.91 percent of inpatient capital-related payments based on the capital Federal rate in FY 2001. Therefore, we are establishing an outlier adjustment factor of 0.9409 to the capital Federal rate. Thus, the projected percentage of capital outlier payments to total capital standard payments for FY 2001 is lower than the percentage for FY 2000.

The outlier reduction factors are not built permanently into the rates; that is, they are not applied cumulatively in determining the capital Federal rate. Therefore, the net change in the outlier adjustment to the capital Federal rate for FY 2001 is 1.0007 (0.9409/0.9402). The outlier adjustment increases the FY 2001 capital Federal rate by 0.07 percent compared with the FY 2000 outlier adjustment.

3. Budget Neutrality Adjustment Factor for Changes in DRG Classifications and Weights and the Geographic Adjustment Factor

Section 412.308(c)(4)(ii) requires that the capital Federal rate be adjusted so that aggregate payments for the fiscal year based on the capital Federal rate after any changes resulting from the annual DRG reclassification and recalibration and changes in the GAF are projected to equal aggregate payments that would have been made on the basis of the capital Federal rate without such changes. We use the actuarial model, described in Appendix B of this final rule, to estimate the aggregate payments that would have been made on the basis of the capital Federal rate without changes in the DRG classifications and weights and in the GAF. We also use the model to estimate aggregate payments that would be made on the basis of the capital Federal rate as a result of those changes. We then use these figures to compute the adjustment required to maintain budget neutrality for changes in DRG weights and in the GAF.

For FY 2000, we calculated a GAF/DRG budget neutrality factor of 0.9985. In the proposed rule for FY 2001, we proposed a GAF/DRG budget neutrality factor of 0.9986. In this final rule, based on calculations using updated data, we are applying a factor of 0.9979. The GAF/DRG budget neutrality factors are built permanently into the rates; that is,

they are applied cumulatively in determining the capital Federal rate. This follows from the requirement that estimated aggregate payments each year be no more than they would have been in the absence of the annual DRG reclassification and recalibration and changes in the GAF. The incremental change in the adjustment from FY 2000 to FY 2001 is 0.9979. The cumulative change in the rate due to this adjustment is 0.9993 (the product of the incremental factors for FY 1993, FY 1994, FY 1995, FY 1996, FY 1997, FY 1998, FY 1999, FY 2000, and FY 2001: $0.9980 \times 1.0053 \times 0.9998 \times 0.9994 \times 0.9987 \times 0.9989 \times 1.0028 \times 0.9985 \times 0.9979 = 0.9993$).

This factor accounts for DRG reclassifications and recalibration and for changes in the GAF. It also incorporates the effects on the GAF of FY 2001 geographic reclassification decisions made by the MGRB compared to FY 2000 decisions. However, it does not account for changes in payments due to changes in the DSH and IME adjustment factors or in the large urban add-on.

4. Exceptions Payment Adjustment Factor

Section 412.308(c)(3) requires that the standard capital Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of additional payments for exceptions under § 412.348 relative to total payments under the hospital-specific rate and capital Federal rate. We use the model originally developed for determining the budget neutrality adjustment factor to determine the exceptions payment adjustment factor. We describe that model in Appendix B to this final rule.

For FY 2000, we estimated that exceptions payments would equal 2.70

percent of aggregate payments based on the capital Federal rate and the hospital-specific rate. Therefore, we applied an exceptions reduction factor of 0.9730 ($1 - 0.0270$) in determining the capital Federal rate. In the May 5, 2000 proposed rule, we estimated that exceptions payments for FY 2001 would equal 2.04 percent of aggregate payments based on the capital Federal rate and the hospital-specific rate. Therefore, we proposed an exceptions payment reduction factor of 0.9796 to the capital Federal rate for FY 2001. The proposed exceptions reduction factor for FY 2001 was 0.68 percent higher than the factor for FY 2000. For this final rule, based on updated data, we estimate that exceptions payments for FY 2001 will equal 2.15 percent of aggregate payments based on the capital Federal rate and the hospital-specific rate. We are, therefore, applying an exceptions payment reduction factor of 0.9785 ($1 - 0.0215$) to the capital Federal rate for FY 2001. The final exceptions reduction factor for FY 2001 is 0.57 percent higher than the factor for FY 2000 and 0.11 percent lower than the factor in the FY 2001 proposed rule.

The exceptions reduction factors are not built permanently into the rates; that is, the factors are not applied cumulatively in determining the capital Federal rate. Therefore, the net adjustment to the FY 2001 capital Federal rate is 0.9785/0.9730, or 1.0057.

5. Standard Capital Federal Rate for FY 2001

For FY 2000, the capital Federal rate was \$377.03. As a result of changes that we proposed to the factors used to establish the capital Federal rate, we proposed that the FY 2001 capital Federal rate would be \$383.06. In this final rule, we are establishing the capital Federal rate of \$382.03. The capital

Federal rate for FY 2001 was calculated as follows:

- The FY 2001 update factor is 1.0090; that is, the update is 0.90 percent.
- The FY 2001 budget neutrality adjustment factor that is applied to the standard capital Federal payment rate for changes in the DRG relative weights and in the GAF is 0.9979.
- The FY 2001 outlier adjustment factor is 0.9409.
- The FY 2001 exceptions payments adjustment factor is 0.9785.

Since the capital Federal rate has already been adjusted for differences in case-mix, wages, cost-of-living, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients, we have made no additional adjustments in the standard capital Federal rate for these factors other than the budget neutrality factor for changes in the DRG relative weights and the GAF.

We are providing a chart that shows how each of the factors and adjustments for FY 2001 affected the computation of the FY 2001 capital Federal rate in comparison to the FY 2000 capital Federal rate. The FY 2001 update factor has the effect of increasing the capital Federal rate by 0.90 percent compared to the rate in FY 2000, while the geographic and DRG budget neutrality factor has the effect of decreasing the capital Federal rate by 0.21 percent. The FY 2001 outlier adjustment factor has the effect of increasing the capital Federal rate by 0.07 percent compared to FY 2000. The FY 2001 exceptions reduction factor has the effect of increasing the capital Federal rate by 0.57 percent compared to the exceptions reduction for FY 2000. The combined effect of all the changes is to increase the capital Federal rate by 1.33 percent for FY 2001 compared to the capital Federal rate for FY 2000.

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2000 CAPITAL FEDERAL RATE AND FY 2001 CAPITAL FEDERAL RATE

	FY 2000	FY 2001	Change	Percent change
Update factor ¹	1.0030	1.0090	1.0090	0.90
GAF/DRG Adjustment Factor ¹	0.9985	0.9979	0.9979	-0.21
Outlier Adjustment Factor ²	0.9402	0.9409	1.0007	0.07
Exceptions Adjustment Factor ²	0.9730	0.9785	1.0057	0.57
Federal Rate	\$377.03	\$382.03	1.0133	1.33

¹ The update factor and the GAF/DRG budget neutrality factors are built permanently into the rates. Thus, for example, the incremental change from FY 2000 to FY 2001 resulting from the application of the 0.9979 GAF/DRG budget neutrality factor for FY 2001 is 0.9979.

² The outlier reduction factor and the exceptions reduction factor are not built permanently into the rates; that is, these factors are not applied cumulatively in determining the rates. Thus, for example, the net change resulting from the application of the FY 2001 outlier reduction factor is 0.9409/0.9402, or 1.0007.

As stated previously in this section, the FY 2001 capital Federal rate has

increased 1.33 percent compared to the FY 2000 capital Federal rate as a result

of the combination of the FY 2001 factors and adjustments applied to the

capital Federal rate. Specifically, the capital update factor increased the FY 2001 capital Federal rate 0.90 percent over FY 2000. The exceptions reduction factor increased 0.57 percent from 0.9730 for FY 2000 to 0.9785 for FY 2001, which results in an increase to the capital Federal rate for FY 2001 compared to FY 2000. Also, the outlier

adjustment factor increased 0.07 percent from 0.9402 for FY 2000 to 0.9409 for FY 2001, which results in an increase to the capital Federal rate for FY 2001 compared to FY 2000. The GAF/DRG adjustment factor decreased 0.21 percent from 0.9986 for FY 2000 to 0.9979 for FY 2001, which results in a decrease the capital Federal rate for FY

2001 compared to FY 2000. The effect of all of these changes is a 1.33 percent increase in the FY 2001 capital Federal rate compared to FY 2000.

We are also providing a chart that shows how the final FY 2001 capital Federal rate differs from the proposed FY 2001 capital Federal rate.

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2001 PROPOSED CAPITAL FEDERAL RATE AND FY 2001 FINAL CAPITAL FEDERAL RATE

	Proposed FY 2001	Final FY 2001	Change	Percent change
Update Factor ¹	1.0090	1.0090	1.0000	0.00
GAF/DRG Adjustment Factor	0.9986	0.9979	0.9992	-0.08
Outlier Adjustment Factor	0.9416	0.9409	0.9992	-0.08
Exceptions Adjustment Factor	0.9796	0.9785	0.9989	-0.11
Federal Rate	\$383.06	\$382.03	0.9973	-0.27

6. Special Rate for Puerto Rico Hospitals

As explained at the beginning of section IV of this Addendum, hospitals in Puerto Rico are paid based on 50 percent of the Puerto Rico rate and 50 percent of the capital Federal rate. The Puerto Rico rate is derived from the costs of Puerto Rico hospitals only, while the capital Federal rate is derived from the costs of all acute care hospitals participating in the prospective payment system (including Puerto Rico). To adjust hospitals' capital payments for geographic variations in capital costs, we apply a geographic adjustment factor (GAF) to both portions of the blended rate. The GAF is calculated using the operating prospective payment system wage index and varies depending on the MSA or rural area in which the hospital is located. We use the Puerto Rico wage index to determine the GAF for the Puerto Rico part of the capital-blended rate and the national wage index to determine the GAF for the national part of the blended rate.

Since we implemented a separate GAF for Puerto Rico in FY 1998, we also apply separate budget neutrality adjustments for the national GAF and for the Puerto Rico GAF. However, we apply the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. The Puerto Rico GAF budget neutrality factor is 1.0037, while the DRG adjustment is 1.0001, for a combined cumulative adjustment of 1.0037.

In computing the payment for a particular Puerto Rico hospital, the

Puerto Rico portion of the rate (50 percent) is multiplied by the Puerto Rico-specific GAF for the MSA in which the hospital is located, and the national portion of the rate (50 percent) is multiplied by the national GAF for the MSA in which the hospital is located (which is computed from national data for all hospitals in the United States and Puerto Rico). In FY 1998, we implemented a 17.78 percent reduction to the Puerto Rico rate as a result of Public Law 105-33.

For FY 2000, before application of the GAF, the special rate for Puerto Rico hospitals was \$174.81. With the changes we proposed to the factors used to determine the rate, the proposed FY 2001 special rate for Puerto Rico was \$185.38. In this final rule, the FY 2001 capital rate for Puerto Rico is \$185.06.

B. Determination of Hospital-Specific Rate Update

Section 412.328(e) of the regulations provides that the hospital-specific rate for FY 2001 be determined by adjusting the FY 2000 hospital-specific rate by the following factors:

1. Hospital-Specific Rate Update Factor

The hospital-specific rate is updated in accordance with the update factor for the standard capital Federal rate determined under § 412.308(c)(1). For FY 2001, we are updating the hospital-specific rate by a factor of 1.0090.

2. Exceptions Payment Adjustment Factor

For FYs 1992 through FY 2001, the updated hospital-specific rate is multiplied by an adjustment factor to

account for estimated exceptions payments for capital-related costs under § 412.348, determined as a proportion of the total amount of payments under the hospital-specific rate and the capital Federal rate. For FY 2001, we estimated in the proposed rule that exceptions payments would be 2.04 percent of aggregate payments based on the capital Federal rate and the hospital-specific rate. Therefore, the proposed exceptions adjustment factor was 0.9796. In this final rule, we estimate that exceptions payments will be 2.15 percent of aggregate payments based on the capital Federal rate and hospital-specific rate. Accordingly, for FY 2001, we are applying an exceptions reduction factor of 0.9785 to the hospital-specific rate. The exceptions reduction factors are not built permanently into the rates; that is, the factors are not applied cumulatively in determining the hospital-specific rate. The net adjustment to the FY 2001 hospital-specific rate is 0.9785/0.9730, or 1.0057.

3. Net Change to Hospital-Specific Rate

We are providing a chart to show the net change to the hospital-specific rate. The chart shows the factors for FY 2000 and FY 2001 and the net adjustment for each factor. It also shows that the cumulative net adjustment from FY 2000 to FY 2001 is 1.0147, which represents an increase of 1.47 percent to the hospital-specific rate. For each hospital, the FY 2001 hospital-specific rate is determined by multiplying the FY 2000 hospital-specific rate by the cumulative net adjustment of 1.0147.

FY 2001 UPDATE AND ADJUSTMENTS TO HOSPITAL-SPECIFIC RATES

	FY 2000	FY 2001	Net adjustment	Percent change
Update Factor	1.0030	1.0090	1.0090	0.90
Exceptions Payment Adjustment Factor	0.9730	0.9785	1.0057	0.57
Cumulative Adjustments	0.9759	0.9903	1.0147	1.47

Note: The update factor for the hospital-specific rate is applied cumulatively in determining the rates. Thus, the incremental increase in the update factor from FY 2000 to FY 2001 is 1.0090. In contrast, the exceptions payment adjustment factor is not applied cumulatively. Thus, for example, the incremental increase in the exceptions reduction factor from FY 2000 to FY 2001 is 0.9785/0.9730, or 1.0057.

C. Calculation of Inpatient Capital-Related Prospective Payments for FY 2001

During the capital prospective payment system transition period, a hospital is paid for the inpatient capital-related costs under one of two payment methodologies—the fully prospective payment methodology or the hold-harmless methodology. The payment methodology applicable to a particular hospital is determined when a hospital comes under the prospective payment system for capital-related costs by comparing its hospital-specific rate to the capital Federal rate applicable to the hospital's first cost reporting period under the prospective payment system. The applicable capital Federal rate was determined by making adjustments as follows:

- For outliers, by dividing the standard capital Federal rate by the outlier reduction factor for that fiscal year; and
- For the payment adjustments applicable to the hospital, by multiplying the hospital's GAF, disproportionate share adjustment factor, and IME adjustment factor, when appropriate.

If the hospital-specific rate is above the applicable capital Federal rate, the hospital is paid under the hold-harmless methodology. If the hospital-specific rate is below the applicable capital Federal rate, the hospital is paid under the fully prospective methodology.

For purposes of calculating payments for each discharge under both the hold-harmless payment methodology and the fully prospective payment methodology, the standard capital Federal rate is adjusted as follows: (Standard Federal Rate) × (DRG weight) × (GAF) × (Large Urban Add-on, if applicable) × (COLA adjustment for hospitals located in Alaska and Hawaii) × (1 + Disproportionate Share Adjustment Factor + IME Adjustment Factor, if applicable). The result is the adjusted capital Federal rate.

Payments under the hold-harmless methodology are determined under one of two formulas. A hold-harmless

hospital is paid the higher of the following:

- 100 percent of the adjusted capital Federal rate for each discharge; or
- An old capital payment equal to 85 percent (100 percent for sole community hospitals) of the hospital's allowable Medicare inpatient old capital costs per discharge for the cost reporting period plus a new capital payment based on a percentage of the adjusted capital Federal rate for each discharge. The percentage of the adjusted capital Federal rate equals the ratio of the hospital's allowable Medicare new capital costs to its total Medicare inpatient capital-related costs in the cost reporting period.

Once a hospital receives payment based on 100 percent of the adjusted capital Federal rate in a cost reporting period beginning on or after October 1, 1994 (or the first cost reporting period after obligated capital that is recognized as old capital under § 412.302(c) is put in use for patient care, if later), the hospital continues to receive capital prospective payment system payments on that basis for the remainder of the transition period.

Payment for each discharge under the fully prospective methodology is based on the applicable transition blend percentage of the hospital-specific rate and the adjusted capital Federal rate. Thus, for FY 2001 payments under the fully prospective methodology will be based on 100 percent of the adjusted capital Federal rate and zero percent of the hospital-specific rate.

Hospitals also may receive outlier payments for those cases that qualify under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments. Outlier payments are made only on that portion of the capital Federal rate that is used to calculate the hospital's inpatient capital-related payments. For fully prospective hospitals, that portion is 100 percent of the capital Federal rate for discharges occurring in cost reporting periods beginning during FY 2001. Thus, a fully

prospective hospital will receive 100 percent of the capital-related outlier payment calculated for the case for discharges occurring in cost reporting periods beginning in FY 2001. For hold-harmless hospitals that are paid 85 percent of their reasonable costs for old inpatient capital, the portion of the capital Federal rate that is included in the hospital's outlier payments is based on the hospital's ratio of Medicare inpatient costs for new capital to total Medicare inpatient capital costs. For hold-harmless hospitals that are paid 100 percent of the capital Federal rate, 100 percent of the capital Federal rate is included in the hospital's outlier payments.

The outlier thresholds for FY 2001 are in section II.A.4.c. of this Addendum. For FY 2001, a case qualifies as a cost outlier if the cost for the case (after standardization for the indirect teaching adjustment and disproportionate share adjustment) is greater than the prospective payment rate for the DRG plus \$17,550.

During the capital prospective payment system transition period, a hospital also may receive an additional payment under an exceptions process if its total inpatient capital-related payments are less than a minimum percentage of its allowable Medicare inpatient capital-related costs. The minimum payment level is established by class of hospital under § 412.348. The minimum payment levels for portions of cost reporting periods occurring in FY 2001 are:

- Sole community hospitals (located in either an urban or rural area), 90 percent;
- Urban hospitals with at least 100 beds and a disproportionate share patient percentage of at least 20.2 percent or that receive more than 30 percent of their net inpatient care revenues from State or local governments for indigent care, 80 percent; and
- All other hospitals, 70 percent.

Under § 412.348(d), the amount of the exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital prospective payment system to the

cumulative minimum payment levels applicable to the hospital for each cost reporting period subject to that system. Any amount by which the hospital's cumulative payments exceed its cumulative minimum payment is deducted from the additional payment that would otherwise be payable for a cost reporting period. New hospitals are exempted from the capital prospective payment system for their first 2 years of operation and are paid 85 percent of their reasonable costs during that period. A new hospital's old capital costs are its allowable costs for capital assets that were put in use for patient care on or before the later of December 31, 1990, or the last day of the hospital's base year cost reporting period, and are subject to the rules pertaining to old capital and obligated capital as of the applicable date. Effective with the third year of operation, we will pay the hospital under either the fully prospective methodology, using the appropriate transition blend in that Federal fiscal year, or the hold-harmless methodology. If the hold-harmless methodology is applicable, the hold-harmless payment for assets in use during the base period would extend for 8 years, even if the hold-harmless payments extend beyond the normal transition period.

D. Capital Input Price Index

1. Background

Like the operating input price index, the Capital Input Price Index (CIPI) is a fixed-weight price index that measures the price changes associated with costs during a given year. The CIPI differs from the operating input price index in one important aspect—the CIPI reflects the vintage nature of capital, which is the acquisition and use of capital over time. Capital expenses in any given year are determined by the stock of capital in that year (that is, capital that remains on hand from all current and prior capital acquisitions). An index measuring capital price changes needs to reflect this vintage nature of capital. Therefore, the CIPI was developed to capture the vintage nature of capital by using a weighted-average of past capital purchase prices up to and including the current year.

Using Medicare cost reports, American Hospital Association (AHA) data, and Securities Data Company data, a vintage-weighted price index was developed to measure price increases associated with capital expenses. We periodically update the base year for the operating and capital input prices to reflect the changing composition of inputs for operating and capital

expenses. Currently, the CIPI is based to FY 1992 and was last rebased in 1997. The most recent explanation of the CIPI was discussed in the final rule with comment period for FY 1998 published on August 29, 1997 (62 FR 46050).

2. Forecast of the CIPI for Federal Fiscal Year 2001

We are forecasting the CIPI to increase 0.9 percent for FY 2001. This reflects a projected 1.5 percent increase in vintage-weighted depreciation prices (building and fixed equipment, and movable equipment) and a 3.6 percent increase in other capital expense prices in FY 2001, partially offset by a 1.2 percent decline in vintage-weighted interest rates in FY 2001. The weighted average of these three factors produces the 0.9 percent increase for the CIPI as a whole.

V. Changes to Payment Rates for Excluded Hospitals and Hospital Units: Rate-of-Increase Percentages

The inpatient operating costs of hospitals and hospital units excluded from the prospective payment system are subject to rate-of-increase limits established under the authority of section 1886(b) of the Act, which is implemented in regulations at § 413.40. Under these limits, a hospital-specific target amount (expressed in terms of the inpatient operating cost per discharge) is set for each hospital, based on the hospital's own historical cost experience trended forward by the applicable rate-of-increase percentages (update factors). In the case of a psychiatric hospital or hospital unit, a rehabilitation hospital or hospital unit, or a long-term care hospital, the target amount may not exceed the updated figure for the 75th percentile of target amounts adjusted to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital for hospitals and units in the same class (psychiatric, rehabilitation, and long-term care) for cost reporting periods ending during FY 1996. The target amount is multiplied by the number of Medicare discharges in a hospital's cost reporting period, yielding the ceiling on aggregate Medicare inpatient operating costs for the cost reporting period.

Each hospital-specific target amount is adjusted annually, at the beginning of each hospital's cost reporting period, by an applicable update factor.

Section 1886(b)(3)(B) of the Act, which is implemented in regulations at § 413.40(c)(3)(vii), provides that for cost reporting periods beginning on or after October 1, 1998 and before October 1,

2002, the update factor for a hospital or unit depends on the hospital's or hospital unit's costs in relation to the ceiling for the most recent cost reporting period for which information is available. For hospitals with costs exceeding the ceiling by 10 percent or more, the update factor is the market basket increase. For hospitals with costs exceeding the ceiling by 10 percent or more, the update factor is the market basket increase. For hospitals with costs exceeding the ceiling by less than 10 percent, the update factor is the market basket minus .25 percent for each percentage point by which costs are less than 10 percent over the ceiling. For hospitals with costs equal to or less than the ceiling but greater than 66.7 percent of the ceiling, the update factor is the greater of 0 percent or the market basket minus 2.5 percent. For hospitals with costs that do not exceed 66.7 percent of the ceiling, the update factor is 0.

The most recent forecast of the market basket increase for FY 2001 for hospitals and hospital units excluded from the prospective payment system is 3.4 percent. Therefore, the update to a hospital's target amount for its cost reporting period beginning in FY 2001 would be between 0.9 and 3.4 percent, or 0 percent, depending on the hospital's or unit's costs in relation to its rate-of-increase limit.

In addition, § 413.40(c)(4)(iii) requires that for cost reporting periods beginning on or after October 1, 1998 and before October 1, 2002, the target amount for each psychiatric hospital or hospital unit, rehabilitation hospital or hospital unit, and long-term care hospital cannot exceed a cap on the target amounts for hospitals in the same class.

Section 121 of Public Law 106–113 amended section 1886(b)(3)(H) of the Act to direct the Secretary to provide for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. We are publishing an interim final rule with comment period elsewhere in this issue of the **Federal Register** that implements this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000. This final rule addresses the wage adjustment to the caps for cost reporting periods beginning on or after October 1, 2000.

As discussed in section VI. of the preamble of this final rule, under section 121 of Public Law 106–113, the cap on the target amount per discharge is determined by adding the hospital's

nonlabor-related portion of the national 75th percentile cap to its wage-adjusted, labor-related portion of the national 75th percentile cap (the labor-related portion of costs equals 0.71553 and the nonlabor-related portion of costs equals 0.28447). A hospital's wage-adjusted, labor-related portion of the target amount is calculated by multiplying the labor-related portion of the national 75th percentile cap for the hospital's class by the wage index under the hospital inpatient prospective payment system (see § 412.63), without taking into account reclassifications under sections 1886(d)(10) and (d)(8)(B) of the Act.

For cost reporting periods beginning in FY 2001, in the May 5, 2000 proposed rule, we included the following proposed caps:

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	\$8,106	\$3,223
Rehabilitation	15,108	6,007
Long-Term Care	29,312	11,654

We have reconsidered the methodology that was originally used to calculate the labor-related and nonlabor-related portions of the proposed FY 2001 wage neutralized national 75th percentile caps on the target amounts for each class of provider. Using the revised methodology discussed previously in this final rule, we have calculated revised labor-related and nonlabor-related portions of the wage-neutralized 75th percentile caps for FY 2001 for each class of hospital, updated by the market basket percentage increase of 3.4 percent. These revised caps are as follows:

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	\$8,131	\$3,233
Rehabilitation	15,164	6,029

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Long-Term Care	29,284	11,642

Regulations at § 413.40(d) specify the formulas for determining bonus and relief payments for excluded hospitals and specify established criteria for an additional bonus payment for continuous improvement. Regulations at § 413.40(f)(2)(ii) specify the payment methodology for new hospitals and hospital units (psychiatric, rehabilitation, and long-term care) effective October 1, 1997.

VI. 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, 1C, 1D, 1E (a new table, as described in section II of this Addendum), 3C, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 7A, 7B, 8A, and 8B are presented below. The tables presented below are as follows:

- Table 1A—National Adjusted Operating Standardized Amounts, Labor/Nonlabor
- Table 1C—Adjusted Operating Standardized Amounts for Puerto Rico, Labor/Nonlabor
- Table 1D—Capital Standard Federal Payment Rate
- Table 1E—National Adjusted Operating Standardized Amounts for Sole Community Hospitals (SCH), Labor/Nonlabor
- Table 3C—Hospital Case Mix Indexes for Discharges Occurring in Federal Fiscal Year 1999 and Hospital Average Hourly Wage for Federal Fiscal Year 2001 Wage Index

- Table 4A—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas
- Table 4B—Wage Index and Capital Geographic Adjustment Factor (GAF) for Rural Areas
- Table 4C—Wage Index and Capital Geographic Adjustment Factor (GAF) for Hospitals That Are Reclassified
- Table 4D—Average Hourly Wage for Urban Areas
- Table 4E—Average Hourly Wage for Rural Areas
- Table 4F—Puerto Rico Wage Index and Capital Geographic Adjustment Factor (GAF)
- Table 5—List of Diagnosis Related Groups (DRGs), Relative Weighting Factors, Geometric Mean Length of Stay, and Arithmetic Mean Length of Stay Points Used in the Prospective Payment System
- Table 6A—New Diagnosis Codes
- Table 6B—New Procedure Codes
- Table 6C—Invalid Diagnosis Codes
- Table 6D—Revised Diagnosis Code Titles
- Table 6E—Revised Procedure Codes
- Table 6F—Additions to the CC Exclusions List
- Table 6G—Deletions to the CC Exclusions List
- Table 7A—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 99 MedPAR Update March 2000 GROUPER V18.0
- Table 7B—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 99 MedPAR Update March 2000 GROUPER V18.0
- Table 8A—Statewide Average Operating Cost-to-Charge Ratios for Urban and Rural Hospitals (Case Weighted) March 2000
- Table 8B—Statewide Average Capital Cost-to-Charge Ratios (Case Weighted) March 2000

TABLE 1A.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

Large urban areas		Other areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
\$2,864.19	\$1,164.21	\$2,818.85	\$1,145.78

TABLE 1C.—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Large urban areas		Other areas	
	Labor	Nonlabor	Labor	Nonlabor
National	\$2,839.54	\$1,154.19	\$2,839.54	\$1,154.19
Puerto Rico	\$1,374.71	\$553.36	\$1,352.95	\$544.60

TABLE 1D.—CAPITAL STANDARD FEDERAL PAYMENT RATE

	Rate
National	\$382.03
Puerto Rico	\$185.06

TABLE 1E.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR SOLE COMMUNITY HOSPITALS, LABOR/
NONLABOR

Large urban areas		Other areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
\$2,894.99	\$1,176.73	\$2,849.16	\$1,158.10

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TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

CASE MIX INDEX	CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE				
	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE		
040058	1.0416	17.68	050007	1.4710	30.71	050069	1.5649	25.94	050125	1.3280	29.61	050192	1.0679	18.67	050262	1.8330	28.88
040060	0.9520	12.81	050008	1.4627	26.25	050070	1.3239	32.52	050126	1.4539	23.92	050193	1.1441	22.63	050264	1.3064	32.13
040062	1.5964	18.20	050009	1.6316	26.82	050071	1.2726	33.19	050127	1.2399	22.19	050194	1.2706	29.74	050267	1.7125	26.23
040064	1.0308	10.73	050013	1.9820	23.22	050072	1.2757	33.29	050128	1.5292	25.72	050195	1.5364	35.56	050270	1.3453	24.04
040066	1.0679	18.34	050014	1.1284	22.85	050073	1.2725	33.39	050129	1.6756	26.50	050196	1.3104	18.52	050272	1.3864	22.42
040067	1.0648	14.60	050015	1.4834	26.25	050074	1.2822	33.91	050131	1.2602	31.07	050197	2.0333	35.74	050274	.	20.04
040069	1.0572	17.51	050016	1.2093	20.56	050076	2.3222	27.78	050132	1.3422	24.08	050204	1.4461	23.61	050276	1.2302	29.86
040070	0.9169	16.90	050017	2.1020	23.96	050077	1.5339	24.10	050133	1.2298	24.97	050205	1.2941	23.68	050277	1.3538	20.05
040071	1.6024	16.96	050018	1.2247	15.47	050078	1.3425	33.07	050135	1.3503	23.24	050207	1.2345	21.62	050278	1.5511	24.78
040072	1.0367	16.09	050021	.	25.90	050079	1.5395	33.24	050136	1.2605	24.79	050211	1.2337	31.61	050279	1.2429	20.84
040074	1.3020	18.32	050022	1.6505	24.03	050082	1.6310	22.10	050137	1.3378	32.65	050213	1.5293	21.48	050280	1.6891	25.21
040075	0.9833	13.36	050024	1.3078	21.40	050084	1.5990	23.59	050138	2.1668	37.33	050214	1.5271	21.73	050281	1.4289	19.69
040076	1.1169	19.07	050025	1.7307	23.39*	050088	0.9053	20.84	050139	1.1835	32.94	050215	1.5862	29.86	050282	1.3170	28.83
040077	1.0446	12.92	050026	1.5309	27.87	050089	1.2850	20.91	050140	1.3745	34.15	050217	1.2595	19.60	050283	1.5413	29.77
040078	1.5823	18.76	050028	1.3413	16.47	050090	1.2711	23.41	050144	1.4511	27.88	050219	1.0424	21.74	050286	.	16.57
040080	1.0135	19.25	050029	1.2961	25.13	050091	1.1411	25.28	050145	1.3366	32.39	050222	1.6060	27.48	050289	1.7654	34.14
040081	0.8788	11.32	050030	1.2995	20.98	050092	0.8504	16.80	050146	1.6421	.	050224	1.6218	23.53	050290	1.6656	28.62
040082	1.0675	16.22	050032	1.2823	25.20	050093	1.5472	25.21	050148	1.0679	21.92	050225	1.5025	23.35	050291	1.2486	30.27
040084	1.1045	17.26	050033	1.4763	24.93	050095	.	33.67	050149	1.3798	24.61	050226	1.4309	27.73	050292	1.0280	21.62
040085	1.1047	16.90	050036	1.7433	21.24	050096	1.0790	20.05	050150	1.2159	24.91	050228	1.3482	34.07	050293	1.3962	22.30
040088	1.3780	17.96	050038	1.3741	28.65	050097	1.4174	16.71	050151	1.3229	34.08	050230	1.5488	27.74	050294	1.4587	21.29
040090	0.8680	17.83	050039	1.5559	22.71	050099	1.4580	24.81	050153	1.6072	30.57	050231	1.5727	26.15	050296	1.1953	27.29
040091	1.2247	19.87	050040	1.2725	32.13	050100	1.7215	29.88	050155	1.0589	21.03	050232	1.7696	24.31	050298	1.2702	24.45
040093	0.9349	12.35	050042	1.2393	24.81	050101	1.4138	31.03	050158	1.2993	27.56	050234	1.1399	25.70	050299	1.4001	26.45
040100	1.1440	14.76	050043	1.5332	33.00	050102	1.2900	22.29	050159	1.3159	23.29	050235	1.5894	25.25	050300	1.5152	23.51
040105	0.9915	15.33	050045	1.2182	19.88	050103	1.5901	24.79	050167	1.4416	21.91	050236	1.4039	26.98	050301	1.2121	22.52
040106	1.0840	15.65	050046	1.1380	25.32	050104	1.4053	25.58	050168	1.5905	23.35	050238	1.5410	24.29	050305	1.5659	34.52
040107	1.0427	18.81	050047	1.6291	29.92	050107	1.4083	21.27	050169	1.4390	22.39	050239	1.6572	22.66	050307	.	17.21
040109	1.1328	14.63	050051	0.9874	17.89	050108	1.8765	23.56	050170	1.4341	23.96	050240	1.5249	26.37	050308	1.4632	29.38
040114	1.8668	18.87	050054	1.1957	20.72	050110	1.1553	20.19	050172	1.2223	20.18	050241	.	26.37	050309	1.3005	23.79
040116	.	20.27	050055	1.1926	29.40	050111	1.2610	21.55	050173	1.1940	24.55	050242	1.3993	31.16	050312	1.9962	26.76
040118	1.4713	19.37	050056	1.3747	27.43	050112	1.4200	25.30	050174	1.7378	30.21	050243	1.5566	28.96	050313	1.2093	21.76
040119	1.1829	15.53	050057	1.6416	21.16	050113	1.2098	28.84	050175	1.3762	27.28	050245	1.5683	23.81	050315	1.2761	24.71
040124	0.9573	19.13	050058	1.4744	23.16	050114	1.3384	24.73	050177	1.2092	21.79	050248	1.2062	26.20	050317	.	21.69
040126	0.9159	12.54	050060	1.5602	20.77	050115	1.5065	21.33	050179	1.2160	21.66	050251	1.0505	21.66	050320	1.2285	30.41
040132	.	17.52	050061	1.3804	23.55	050116	1.5551	25.21	050180	1.5829	31.89	050253	1.4108	16.07	050324	2.0245	26.60
040134	2.6321	18.08	050063	1.3286	24.89*	050117	1.3393	23.36	050183	.	20.36	050254	1.1383	19.31	050325	1.2379	24.49
040135	1.4614	22.68	050065	1.7152	24.04	050118	1.1760	23.77	050186	1.3588	22.42	050256	1.7282	23.69	050327	1.6171	23.95
040136	2.2285	.	050066	1.3859	16.57	050121	1.3130	19.53	050188	1.4760	28.09	050257	1.0952	15.23	050329	1.4029	22.25
050002	1.5130	37.83	050067	1.2781	23.20	050122	1.6016	26.32	050189	0.9931	22.87	050260	0.9729	23.24	050331	1.4029	22.25
050006	1.4898	19.56	050068	1.0785	20.69	050124	1.2563	22.77	050191	1.3728	20.83	050261	1.2488	20.06	050333	1.0599	19.46

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG.													
	MIX INDEX	HOURLY WAGE												
050334	1.7198	34.23	050411	1.3458	34.69	050567	1.5230	24.65	050641	1.1922	21.83	050721	1.3599	
050335	1.3886	23.03	050414	1.2179	24.21	050491	1.1165	26.87	050491	0.8109		050722	1.1328	
050336	1.3169	20.80	050417	1.2667	21.57	050492	1.4208	19.55	050492	1.0478	22.35	050723	1.1458	
050337	1.3409		050419	1.4165	23.76	050494	1.2598	29.26	050570	1.5734	25.23	060001	1.6560	
050342	1.2313	20.18	050420	1.2831	22.32	050496	1.6617	32.52	050571	1.3916	26.20	060003	1.2450	
050343		17.21	050423	1.1073	17.38	050497	0.8090	13.81	050573	1.5666	24.96	060004	1.2401	
050345	0.8081		050424	1.8980	22.83	050498	1.2005	24.97	050575	1.0859	30.66	060006	1.1951	
050348	1.7914	23.88	050425	1.2440	32.84	050502	1.7572	22.38	050577	1.3879	25.15	060007	1.1130	
050349	0.8947	14.98	050426	1.4508	25.25	050503	1.3610	24.41	050578	1.3279	28.54	060008	1.0579	
050350	1.4096	24.83	050427	0.9257	20.17	050506	1.3777	25.08	050579	1.3278	30.50	060009	1.5799	
050351	1.4609	25.48	050430	0.9725	23.88	050510	1.1920	33.38	050580	1.2430	25.90	060010	1.6140	
050352	1.3561	26.14	050432	1.5786	24.41	050512	1.3583	35.36	050581	1.4104	23.86	060011	1.3550	
050353	1.5602	23.06	050433	0.9702	17.46	050515	1.3774	35.34	050583	1.5678	24.40	060012	1.4000	
050355	0.8485	17.28	050434	1.0486	19.76	050516	1.4947	24.80	050584	1.1273	21.24	060013	1.3094	
050357	1.3846	22.65	050435	1.2440	25.67	050517	1.1886	20.96	050585	1.2592	25.94	060014	1.8352	
050359	1.2332	17.79	050436			050522	1.1534	35.38	050586	1.2201	23.41	060015	1.6041	
050360	1.3892	31.35	050438	1.7078	25.01	050523	1.2559	27.05	050588	0.9010	26.29	060016	1.3342	
050366	1.2340	23.75	050440	1.2220	23.52	050526	1.2343	23.81	050589	1.1422	24.87	060018	1.2594	
050367	1.2258	28.28	050441	1.9615	28.98	050528	1.1739	19.06	050590	1.3405	22.45	060020	1.8894	
050369	1.3189	27.05	050443	0.7668	19.90	050531	1.1214	22.73	050591	1.2390	23.94	060022	1.5421	
050373	1.3743	26.98	050444	1.3195	21.45	050534	1.2615	24.07	050592	1.2571	21.17	060023	1.6370	
050376	1.5548	26.58	050446	0.8710	20.49	050535	1.2205	25.42	050594	1.7225	27.16	060024	1.6918	
050377	0.9251	17.18	050447	1.0025	17.98	050537	1.2810	22.23	050597	1.2900	32.82	060027	1.6340	
050378	1.1111	25.98	050448	1.0661	19.70	050539	1.2979	20.71	050599	1.5667	23.23	060028	1.3273	
050379	0.9751	15.20	050449	1.4294	23.80	050541	1.5699	34.46	050599	1.5667	29.12	060029	0.8712	
050380	1.6344	31.43	050454	1.7542	28.74	050542	1.0181	16.09	050601	1.4829	31.87	060030	1.3093	
050382	1.3423	26.14	050455	1.9538	20.16	050543	0.8627	22.40	050603	1.3656	23.34	060031	1.4973	
050385	1.4093	24.61	050456	1.1464	20.13	050545	0.7893	26.33	050604	1.4342	34.05	060032	1.4822	
050388	0.8344	19.15	050457	1.6183	34.49	050546	0.6812	26.19	050608	0.5929	25.78	060033	1.0878	
050390	1.1918	25.04	050464	1.7414	25.33	050547	0.8107	26.83	050609	1.5764	34.99	060034	1.5449	
050391	1.2245	18.93	050468	1.5228	23.31	050548		28.81	050613	1.0324	23.38	060036	1.1014	
050392	0.9498	21.67	050469	1.0325	23.88	050549	1.6573	27.28	050615	1.4553	23.88	060037	0.9899	
050393	1.4701	25.70	050470	1.0920	16.03	050550	1.3328	24.80	050616	1.3937	22.74	060038	0.8834	
050394	1.5619	23.06	050471	1.6664	25.62	050551	1.3151	25.47	050618	0.9967	21.65	060041	0.8407	
050396	1.6587	24.06	050476	1.3078	22.48	050552	1.1745	29.18	050710	1.3017	26.91	060042	0.9939	
050397	0.8335	20.26	050477	1.4897	27.96	050557	1.4951	21.12	050713	0.8043	17.73	060043	0.8817	
050401	0.9837	20.75	050478	0.9807	24.54	050559	1.3278	23.58	050714	1.2848	28.93	060044	1.3096	
050404	1.0584	17.34	050481	1.4495	28.97	050561	1.1801	34.58	050717	1.3723	25.95	060046	1.0232	
050406	1.0485	17.30	050482	0.9444	18.12	050564	1.5745	23.59	050718	0.8128	17.61	060047	1.0220	
050407	1.2790	29.96	050483		22.72	050565		23.78	050719	2.5629	25.55	060049	1.3733	
050410	0.9752	17.68	050485	1.5735	24.20	050566	0.9370	17.44	050720	0.8820		060050	1.2397	

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

CASE MIX INDEX	CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE				
	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE		
060032	1.0096	13.42	070019	1.2559	25.73	100010	1.4768	21.91	100062	1.7067	19.44	100122	1.1578	19.88	100179	1.7878	22.30
060033	0.9789	15.98	070020	1.3583	24.00	100012	1.6509	19.62	100063	1.2326	19.26	100124	1.2709	17.07	100180	1.4269	20.21
060034	1.3802	22.90	070021	1.1970	25.30	100014	1.4070	19.80	100067	1.3627	18.09	100125	1.2050	18.95	100181	1.2057	23.08
060035	0.9313	18.28	070022	1.8535	26.57	100015	1.4230	18.48	100068	1.3243	19.83	100126	1.4297	19.54	100182	1.2032	24.61
060037	1.4043	26.40	070024	1.3313	25.30	100017	1.6812	19.06	100069	1.3150	16.83	100127	1.5701	19.99	100187	1.3998	20.25
060038	0.9492	15.49	070025	1.8562	25.13	100018	1.5011	21.03	100070	1.4646	18.74	100128	2.2138	20.15	100189	1.3210	21.31
060060	0.8852	15.85	070027	1.3014	23.64	100019	1.6476	22.62	100071	1.2401	17.55	100129	1.2952	19.19	100191	1.3014	19.99
060062	0.8800	17.30	070028	1.5475	24.68	100020	1.2538	21.38	100072	1.2465	21.02	100130	1.2638	18.67	100199	.	21.72
060064	1.4327	21.22	070029	1.3317	22.01	100022	1.7977	26.41	100073	1.7099	21.19	100131	1.3130	23.44	100200	1.3127	22.46
060065	1.3063	21.63*	070030	1.0954	28.91	100023	1.3043	19.97	100075	1.5177	18.37	100132	1.2704	18.12	100204	1.5509	20.90
060066	0.9653	16.35	070031	1.2784	23.44	100024	1.2308	21.88	100076	1.3327	17.87	100134	1.0026	15.18	100206	1.3713	19.37
060070	1.1118	17.32	070033	1.3780	30.42	100025	1.7122	18.78	100077	1.3677	22.34	100135	1.5438	18.83	100208	1.3718	21.21
060071	1.2290	17.60	070034	1.4298	28.92	100026	1.6555	20.56	100078	1.0113	18.45	100137	1.2029	18.69	100209	1.4892	22.46
060073	0.8801	15.79	070035	1.4142	23.09	100027	0.9677	19.15	100079	1.4697	.	100138	0.9934	17.14	100210	1.5745	21.36
060075	1.2310	24.16	070036	1.7768	28.84	100028	1.2175	19.38	100080	1.6026	22.20	100139	1.0511	15.65	100211	1.3116	20.64
060076	1.4510	24.87	070038	0.9007	.	100029	1.2995	20.87	100081	1.0771	14.83	100140	1.1455	17.14	100212	1.6043	21.12
060085	0.9227	13.63	070039	0.9155	22.90	100030	1.2253	20.82	100082	.	18.90	100142	1.2535	19.68	100213	1.5130	20.66
060088	1.0677	25.28	080001	1.6605	25.48	100032	1.8433	19.81	100084	1.5861	22.37	100144	.	12.29	100217	1.2276	20.59
060090	0.8332	22.30	080002	.	19.60	100034	1.7323	17.87	100085	.	22.12	100146	0.9840	18.13	100220	1.6360	21.28
060096	1.2869	21.96	080003	1.3359	22.19	100035	1.6444	20.15	100086	1.2203	21.70	100147	1.0454	14.66	100221	1.9717	17.40
060100	1.5438	23.60	080004	1.2756	21.94	100038	1.8862	23.36	100087	1.8911	23.61	100150	1.3644	21.28	100223	1.4612	20.63
060103	1.3692	24.82	080006	1.3228	20.08	100039	1.5160	21.53	100088	1.6738	20.37	100151	1.7568	21.61	100224	1.3092	20.03
060104	1.2596	22.23	080007	1.3634	19.62	100040	1.7918	19.04	100090	1.3666	19.15	100154	1.5662	20.00	100225	1.2947	20.68
060107	1.2686	14.27	080008	1.2135	.	100043	1.2933	18.80	100092	1.5578	17.92	100156	1.1110	19.50	100226	1.3759	20.69
060109	1.2053	.	090001	1.5880	21.75	100044	1.3450	21.48	100093	1.6751	16.51	100157	1.5741	22.67	100228	1.2632	21.32
070001	1.8305	26.09	090002	1.2381	19.42	100045	1.3467	20.92	100098	1.0495	19.24	100159	0.8737	10.28	100229	1.3076	19.69
070002	1.8301	26.28	090003	1.3584	22.11	100046	1.3499	21.62	100099	1.1718	15.78	100160	1.1962	20.56	100230	1.3669	20.51
070003	1.1623	25.69	090004	1.8640	24.34	100047	1.8042	20.01	100102	1.0366	18.97	100161	1.6933	22.30	100231	1.6423	17.92
070004	1.2793	22.49	090005	1.3353	23.86	100048	0.9466	15.06	100103	0.9617	17.24	100162	1.4192	20.14	100232	1.2490	19.35
070005	1.4204	26.65	090006	1.3430	20.87	100049	1.1979	18.85	100105	1.4120	21.66	100165	.	19.04	100234	1.3541	20.91
070006	1.3549	27.57	090007	1.5335	22.20	100050	1.2972	17.24	100106	1.0366	17.25	100166	1.4576	20.03	100235	.	17.16
070007	1.3095	26.95	090008	1.4797	20.22	100051	1.3291	23.13	100107	1.2761	20.13	100167	1.4353	23.41	100236	1.3952	20.38
070008	1.2543	23.02	090010	1.1378	24.13	100052	1.3220	17.95	100108	0.9743	19.96	100168	1.3353	20.20	100237	2.1465	22.09
070009	1.1583	24.62	090011	2.1415	27.48	100053	1.1953	20.17	100109	1.3754	20.84	100169	1.8069	20.95	100238	1.6295	19.64
070010	1.6702	26.24	100001	1.5588	19.58	100054	1.2568	23.55	100110	1.3863	20.90	100170	1.3547	18.51	100239	1.4056	21.32
070011	1.3717	23.36	100002	1.4001	20.71	100055	1.3618	18.05	100112	1.0431	25.26	100172	1.4357	14.34	100240	0.8726	20.43
070012	1.2277	23.03	100004	0.9641	14.63	100056	1.5304	25.79	100113	1.7346	23.20	100173	1.8963	18.57	100241	0.8328	14.72
070015	1.4027	23.82	100006	1.6064	20.11	100057	1.3415	19.97	100114	1.3580	21.63	100174	1.3537	26.18	100242	1.4072	17.93
070016	1.4796	24.91	100007	1.8840	21.72	100059	1.9893	.	100117	1.2235	20.76	100175	1.1227	18.17	100243	1.3654	21.26
070017	1.4083	26.29	100008	1.6961	20.50	100060	1.7353	23.26	100118	1.1406	22.87	100176	1.2365	22.86	100244	1.3260	18.62
070018	1.3599	26.07	100009	1.5195	22.64	100061	1.4169	22.11	100121	1.1625	.	100177	1.2949	24.43	100246	1.4821	19.64

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE		CASE		CASE		CASE		CASE		CASE						
	MIX	AVG.	MIX	AVG.	MIX	AVG.	MIX	AVG.	MIX	AVG.	MIX	AVG.					
INDEX	INDEX	HOURLY	INDEX	HOURLY	INDEX	HOURLY	INDEX	HOURLY	INDEX	HOURLY	INDEX	HOURLY					
WAGE	WAGE	WAGE	WAGE	WAGE	WAGE	WAGE	WAGE	WAGE	WAGE	WAGE	WAGE	WAGE					
130045	0.9558	16.10	140042	0.9892	15.41	140095	1.3673	24.05	140148	1.8761	18.66	140207	1.2684	21.98	150001	1.0961	22.81
130048	1.0584	16.09	140043	1.1605	19.47	140097	0.9299	17.51	140150	1.5468	27.34	140208	1.7009	25.99	150002	1.4810	19.34
130049	1.2597	20.31	140045	1.0042	15.58	140100	1.3439	21.36	140151	0.9279	21.39	140209	1.5933	18.12	150003	1.8126	19.77
130054	1.0083	17.27	140046	1.2980	18.98	140101	1.0732	21.55	140152	1.1995	24.63	140210	1.1292	15.69	150004	1.5384	20.37
130056	0.8268	14.69	140047	1.4728	17.15	140102	1.1733	19.97	140155	1.3323	19.97	140211	1.2324	21.89	150005	1.1302	20.63
130060	1.3119	21.87	140048	1.3586	24.09	140103	1.3665	19.28	140158	1.3329	22.76	140213	1.2798	27.06	150006	1.2667	20.82
130061		15.40	140049	1.6823	28.50	140105	1.2652	22.66	140160	1.1491	17.77	140215	0.9827	15.99	150007	1.1797	20.18
130062	0.7754	16.57	140051	1.4544	23.83	140107	0.9570	13.75	140161	1.1381	20.09	140217	1.3142	24.82	150008	1.3764	21.45
130063	1.6666	15.94	140052	1.2827	19.64	140108	1.3348	25.47	140162	1.8143	19.65	140218	0.9762	14.95	150009	1.3792	18.71
140001	1.2176	16.34	140053	2.0553	19.19	140109	1.1477	15.75	140164	1.4391	18.78	140220	1.1358	17.64	150010	1.3460	21.71
140002	1.2407	19.02	140054	1.3693	22.19	140110	1.1879	19.18	140165	1.1132	14.92	140223	1.5180	24.92	150011	1.1586	18.37
140003	1.0106	21.29	140055	0.9934	16.34	140112	1.0909	17.69	140166	1.1649	17.55	140224	1.4016	25.87	150012	1.5933	22.48
140004	1.1044	15.70	140058	1.3067	17.49	140113	1.5040	19.06	140167	1.1024	17.15	140228	1.6645	19.70	150013	1.0477	17.03
140005	0.9925	11.61	140059	1.1068	15.02	140114	1.3187	21.16	140168	1.2012	16.68	140230	0.9202	18.09	150014	1.5409	22.01
140007	1.4589	22.98	140061	1.1025	17.30	140115	1.3042	23.12	140170	1.1349	16.16	140231	1.5297	23.92	150015	1.2952	22.54
140008	1.4727	21.65	140062	1.2475	28.09	140116	1.2352	21.57	140171	0.9900	14.16	140233	1.7458	19.45	150017	1.8570	18.77
140010	1.3751	31.82	140063	1.4962	25.36	140117	1.5556	21.57	140172	1.7225	23.84	140234	1.2127	18.99	150018	1.4858	20.49
140011	1.1654	17.87	140064	1.2598	19.10	140118	1.7413	23.60	140173	0.9333	15.15	140239	1.6490	18.81	150019	1.1102	16.63
140012	1.2798	23.07	140065	1.4177	24.11	140119	1.7501	29.14	140174	1.5586	20.53	140240	1.6241	24.54	150021	1.6509	19.51
140013	1.5935	18.31	140066	1.1873	17.39	140120	1.3462	18.07	140176	1.2136	23.29	140242	1.6241	24.54	150022	1.1219	19.16
140014	1.1508	22.47	140067	1.7590	19.33	140121	1.3415	16.04	140177	1.3038	18.26	140245	1.1878	13.48	150023	1.5928	18.36
140015	1.2388	16.67	140068	1.4582	19.97	140122	1.5465	24.65	140179	1.3325	21.19	140246	1.0433	13.46	150024	1.5025	18.41
140016	1.0061	13.13	140069	0.9782	16.75	140124	1.1188	27.19	140180	1.4284	22.45	140250	1.2950	25.09	150025	1.4278	17.70
140018	1.3458	22.31	140070	1.1803	22.97	140125	1.3218	17.67	140181	1.4221	20.87	140251	1.3473	21.44	150026	1.2234	18.84
140019	1.0159	16.65	140074	0.9349	19.35	140127	1.4174	19.90	140182	1.3514	22.02	140252	1.4884	25.22	150027	1.0123	17.33
140024	0.9843	16.83	140075	1.2766	21.63	140128	1.0088	19.50	140184	1.1880	17.82	140253	1.1842	18.55	150029	1.3648	23.05
140025	1.0506	16.95	140077	1.0565	17.53	140129	1.1841	18.26	140185	1.4704	17.65	140258	1.5250	23.30	150030	1.2737	18.00
140026	1.1496	16.66	140079	1.1955	23.30	140130	1.1970	22.23	140186	1.3232	22.79	140271	0.9410	15.51	150031	1.0525	17.24
140027	1.2099	18.76	140080	1.4832	21.07	140132	1.4751	23.55	140187	1.6400	17.92	140275	1.2790	20.17	150033	1.5657	21.88
140029	1.3319	22.83	140081	1.0317	16.22	140133	1.3795	21.41	140188	0.9867	15.25	140276	2.0067	26.68	150034	1.4343	22.13
140030	1.8591	21.95	140082	1.3053	23.90	140135	1.2675	17.81	140189	1.2371	21.06	140280	1.4485	20.24	150035	1.4773	20.45
140031	1.1639	19.57	140083	1.3361	19.31	140137	1.0600	16.90	140190	1.0808	16.34	140281	1.6244	24.02	150036	1.0051	20.87
140032	1.2551	18.10	140084	1.2566	20.97	140138	0.9876	16.74	140191	1.3873	25.88	140285	1.2593	18.12	150037	1.2338	21.71
140033	1.2941	24.17	140086	1.0731	18.38	140139	1.0648	14.06	140193	0.9673	15.80	140286	1.1206	20.37	150038	1.1488	21.22
140034	1.2080	19.53	140087	1.3565	16.10	140140	1.1269	17.82	140199	1.2470	18.64	140289	1.3216	17.14	150039	0.9673	18.47
140035	1.0676	15.26	140088	1.7648	25.24	140141	1.2248	17.52	140199	1.2470	18.64	140289	1.3216	17.14	150039	0.9673	18.47
140036	1.2542	18.58	140089	1.2772	17.64	140143	1.0801	19.19	140200	1.5266	21.52	140290	1.3080	21.18	150042	1.2980	18.16
140037	1.0619	13.08	140090	1.4463	26.43	140144	0.9808	21.32	140202	1.3146	22.19	140291	1.3217	25.09	150043	1.1311	19.01
140038	1.0620	18.30	140091	1.8707	18.90	140145	1.1293	17.55	140203	1.1787	19.92	140292	1.2018	20.86	150044	1.2395	18.44
140040	1.1966	19.93	140093	1.1361	18.29	140146	1.0397	21.96	140205	1.5345	17.48	140294	1.1339	17.72	150045	1.1091	16.81
140041	1.1937	17.66	140094	1.2552	21.47	140147	1.2073	16.13	140206	1.2274	21.33	140300	1.5055	25.37	150046	1.4223	17.63

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX
	MIX	INDEX			MIX	INDEX			MIX	INDEX			MIX	INDEX			MIX	INDEX	
150047	1.5548	19.74	150097	1.0606	19.38	160016	1.1890	19.63	160065	1.0386	16.94	160113	1.0604	14.71	170023	1.4037	19.14	170023	1.4037
150048	1.1828	19.33	150098	1.1351	15.09	160018	0.9389	14.59	160066	1.0699	17.19	160114	0.9688	16.14	170024	1.0560	13.68	170024	1.0560
150049	1.1915	17.01	150099		22.42	160020	1.1347	15.47	160067	1.4189	17.85	160115	0.9815	15.90	170025	1.1828	17.87	170025	1.1828
150050	1.0891	16.83	150100	1.5717	18.41	160021	0.9996	16.50	160068	1.0723	17.99	160116	1.0506	16.95	170026	1.0303	15.05	170026	1.0303
150051	1.4769	19.01	150101	1.0455	16.46	160023	1.0324	15.07	160069	1.5072	19.73	160117	1.3356	17.94	170027	1.2437	17.36	170027	1.2437
150052	1.0296	15.86	150102	1.0869	19.74	160024	1.5676	19.71	160070	0.9286	16.70	160118	1.0368	17.25	170030	0.9983	14.65	170030	0.9983
150053	0.9666	19.14	150103	1.0079	18.48	160026	0.9794	18.84	160072	1.0484	14.95	160120	0.9606	10.60	170031	0.8963	13.96	170031	0.8963
150054	1.2297	17.38	150104	1.0488	17.70	160027	1.0597	16.35	160073	0.9892	11.83	160122	1.0888	18.92	170032	1.0181	15.61	170032	1.0181
150056	1.8704	22.41	150105	1.2888	20.04	160028	1.2276	19.96	160074	0.9931	19.51	160124	1.2749	18.09	170033	1.3716	16.41	170033	1.3716
150057	2.1498	16.59	150106	0.9758	16.15	160029	1.5419	20.47	160075	1.1054	19.49	160126	1.0585	17.81	170034	1.0464	15.82	170034	1.0464
150058	1.7018	20.82	150109	1.4431	18.81	160030	1.3367	19.95	160076	1.0723	17.94	160129	0.9310	16.71	170035	0.9164	18.59	170035	0.9164
150059	1.4196	21.25	150110	0.9738	18.66	160031	1.0458	15.24	160077	1.1064	12.88	160130	1.0192	16.05	170038	0.8630	14.78	170038	0.8630
150060	1.1497	17.07	150111	1.1113	18.46	160032	1.1095	17.32	160079	1.4272	17.62	160131	1.0654	15.49	170039	1.0411	15.86	170039	1.0411
150061	1.2136	17.39	150112	1.2498	20.41	160033	1.8678	18.87	160080	1.1627	18.67	160134	0.9949	13.47	170040	1.6231	21.64	170040	1.6231
150062	1.0069	20.54	150113	1.2243	20.38	160034	1.1092	15.00	160081	1.1175	17.01	160135	0.9409	18.27	170041	1.1058	11.76	170041	1.1058
150063	1.0264	22.09	150114	0.9415	19.52	160035	0.8430	15.22	160082	1.8732	19.65	160138	1.0465	16.87	170044	0.9420	15.30	170044	0.9420
150064	1.1320	18.14	150115	1.2734	17.43	160036	0.9888	17.88	160083	1.6823	20.62	160140	1.1049	18.40	170045	1.0821	14.09	170045	1.0821
150065	1.1819	19.89	150122	1.1132	18.71	160037	1.0334	19.05	160085	1.0408	18.01	160142	0.9676	16.29	170049	1.4389	19.94	170049	1.4389
150066	0.9694	15.34	150123	1.0230	14.11	160039	1.0217	17.48	160086	0.9072	17.33	160143	1.1451	16.62	170051	0.9580	15.09	170051	0.9580
150067	1.1307	18.29	150124	1.1623	14.62	160040	1.3529	18.19	160088	1.1114	20.23	160145	1.0588	13.92	170052	1.0777	15.01	170052	1.0777
150069	1.1721	21.53	150125	1.4695	20.67	160041	1.0096	16.78	160089	1.2300	16.95	160146	1.4364	16.60	170053	0.9645	16.51	170053	0.9645
150070	0.9399	17.93	150126	1.4199	21.37	160043	1.0505	15.69	160090	1.0131	17.11	160147	1.2868	17.49	170054	1.0501	14.44	170054	1.0501
150071	1.1041	13.48	150127	1.0338	17.20	160044	1.2178	16.74	160091	0.9832	12.85	160151	0.9959	16.83	170055	0.9156	16.98	170055	0.9156
150072	1.1923	16.21	150128	1.2621	18.51	160045	1.7238	20.12	160092	1.0498	15.50	160152	1.0281	15.62	170056	0.9157	17.04	170056	0.9157
150073	1.0447	22.30	150129	1.1517	24.77	160046	0.9295	14.57	160093	1.0756	17.75	160153	1.7619	20.23	170057			170057	
150074	1.6432	20.42	150130	1.3279	18.20	160047	1.4784	18.36	160094	1.1674	18.76	170001	1.1900	17.93	170058	1.1528	18.70	170058	1.1528
150075	1.1646	15.56	150132	1.4207	20.17	160048	1.1572	14.61	160095	1.0535	15.19	170004	1.0598	15.06	170060	0.9524	17.35	170060	0.9524
150076	1.1130	22.94	150133	1.2310	17.40	160049	0.9902	14.55	160097	1.1304	15.93	170006	1.2265	17.22	170061	1.1127	15.65	170061	1.1127
150077	1.0269	19.27	150134	1.0717	19.25	160050	1.0344	17.49	160098	0.9348	16.31	170008	0.9945	14.91	170063	0.8876	12.81	170063	0.8876
150078	1.0269	19.27	150136	0.8719	20.12	160051	1.0516	14.64	160099	0.9639	13.91	170009	1.1611	20.78	170066	0.9084	15.53	170066	0.9084
150082	1.3227	17.53	150145		16.69	160052	0.9904	18.09	160101	1.1048	18.37	170010	1.2832	18.74	170067	0.9801	14.75	170067	0.9801
150084	1.9364	23.25	160001	1.2868	18.60	160054	1.0994	16.17	160102	1.3544	18.88	170012	1.4492	17.87	170068	1.3058	15.18	170068	1.3058
150086	1.2075	18.97	160002	1.0984	15.95	160055	0.9237	14.76	160103	0.9399	17.10	170013	1.4696	18.65	170070	0.9598	14.24	170070	0.9598
150088	1.3248	18.99	160003	1.0300	16.09	160056	1.1254	16.16	160104	1.1675	18.93	170014	1.0168	17.93	170072	0.8337	12.63	170072	0.8337
150089	1.9038	23.88	160005	1.1423	17.62	160057	1.2725	18.18	160106	1.1340	16.96	170015	0.9421	16.58	170073	1.0589	17.54	170073	1.0589
150090	1.4078	20.77	160007	1.0002	13.21	160058	1.8148	21.12	160107	1.1110	18.06	170016	1.6697	19.21	170074	1.1477	17.55	170074	1.1477
150091	1.0239	20.41	160008	1.1119	15.97	160060	1.0746	16.04	160108	1.0645	16.05	170017	1.1933	17.80	170075	0.9137	12.42	170075	0.9137
150092	1.0634	16.74	160009	1.1960	16.84	160061	1.0821	17.32	160109	1.1920	16.56	170019	1.0340	15.30	170076	0.9228	14.59	170076	0.9228
150094	1.0040	16.58	160012	0.9906	16.48	160062	0.9842	17.81	160110	1.5320	19.14	170018	1.2564	15.21	170077	0.9011	13.52	170077	0.9011
150095	1.0586	17.13	160013	1.2031	18.40	160063	1.0218	16.88	160111	1.0094	14.16	170020	1.4588	17.34	170079	1.0051	13.53	170079	1.0051
150096	0.9851	23.28	160014	1.0396	15.91	160064	1.5638	20.55	160112	1.3682	16.83	170022	1.1249	18.53	170080	1.0157	12.60	170080	1.0157

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG.		CASE MIX		CASE AVG.		CASE MIX		CASE AVG.		CASE MIX		CASE AVG.	
	INDEX	WAGE	INDEX	WAGE	INDEX	WAGE	INDEX	WAGE	INDEX	WAGE	INDEX	WAGE	INDEX	WAGE
170081	0.9179	13.81	170143	1.0808	15.65	180026	1.1066	14.68	180080	1.0590	16.50	190002	1.7040	19.19
170082	0.9560	12.86	170144	1.4747	19.09	180027	1.2062	16.41	180087	1.2432	14.92	190003	1.4197	19.77
170084	0.8997	12.54	170145	1.0637	17.18	180028	1.0852	19.33	180088	1.6618	22.04	190004	1.4585	17.77
170085	0.8789	15.45	170146	1.4371	20.91	180029	1.2353	17.77	180092	1.2189	18.24	190005	1.4428	17.24*
170086	1.6269	20.41	170147	1.1919	22.30	180030	1.1131	17.34	180093	1.5273	17.01	190006	1.2536	17.80
170088	0.9383	13.45	170148	1.2974	16.92	180031	1.0049	13.98	180094	0.9848	13.55	190007	1.0847	13.82
170089	0.8581	18.81	170150	1.1401	15.57	180032	1.0497	16.83	180095	1.0815	13.80	190008	1.5972	18.67
170090	1.0305	11.91	170151	1.0251	13.89	180033	1.0826	17.73	180099	1.0812	13.36	190009	1.2292	15.36
170093	0.9152	13.55	170152	0.9663	14.91	180034	1.0225	15.34	180101	1.0980	18.49	190010	1.0652	16.28
170094	0.9430	20.20	170160	0.9394	13.71	180035	1.5443	20.13	180102	1.5077	17.96	190011	1.1242	15.95
170095	1.0081	15.55	170164	0.9528	16.65	180036	1.1682	19.84	180103	2.2745	19.90	190013	1.2743	16.82
170097	0.9135	16.46	170166	1.0411	27.56	180037	1.2564	19.97	180104	1.5793	18.93	190014	1.1194	17.10
170098	1.1140	15.53	170171	1.0039	12.52	180038	1.4857	17.76	180105	0.8848	15.24	190015	1.2875	18.63
170099	1.2219	13.60	170175	1.3130	19.02	180040	1.9328	19.93	180106	0.8749	14.35	190017	1.3202	16.24
170101	0.8928	14.56	170176	1.5629	21.34	180041	1.1640	15.08	180108	0.8427	14.82	190018	1.1770	15.07
170102	1.0037	13.63	170180	1.4962	16.69	180042	1.1421	16.77	180115	1.0497	16.70	190019	1.7402	18.53
170103	1.3029	17.28	170182	1.4962	22.22	180043	1.1411	16.80	180116	1.2349	18.04	190020	1.1662	17.53
170104	1.4777	20.62	170183	1.9768	20.35	180044	1.2021	18.36	180117	1.0923	17.78	190025	1.2825	18.64
170105	1.1432	16.54	170185	1.0622	16.54	180045	1.2788	17.71	180118	0.9296	15.86	190026	1.5256	18.16
170106	0.9683	18.55	170186	2.9004	16.54	180046	1.0399	19.23	180120	0.9686	16.16	190027	1.4896	17.08
170109	0.9676	16.98	180001	1.3208	17.99	180047	1.0459	16.23	180121	1.1356	15.10	190029	1.1610	16.52
170110	1.1397	14.39	180004	1.0414	17.97	180048	1.2349	18.34	180122	1.1094	18.51	190034	1.1765	16.85
170112	1.1397	14.39	180004	1.0481	17.26	180049	1.3091	16.43	180123	1.3656	21.06	190036	1.6931	20.18
170113	1.1135	13.90	180005	1.2239	21.14	180050	1.2654	17.95	180124	1.2800	17.50	190037	0.9934	17.69
170114	0.9553	14.45	180006	0.9725	11.44	180051	1.4163	16.40	180125	1.0652	19.64	190039	1.3993	19.47
170115	0.9614	12.70	180007	1.4014	17.68	180053	1.0510	15.93	180126	1.0659	12.92	190040	1.3542	21.46
170116	1.0957	16.87	180009	1.3469	21.47	180054	1.1113	19.49	180127	1.2669	19.26	190041	1.5887	17.66
170117	0.8910	15.79	180010	1.9348	19.11	180055	1.2882	15.27	180128	1.0381	17.64	190043	1.0177	15.56
170119	0.9504	15.20	180011	1.3322	17.10	180056	1.1845	17.01	180129	0.9593	16.84	190044	1.1755	17.29
170120	1.2820	17.67	180012	1.3882	18.72	180058	0.9969	15.97	180130	1.4281	19.82	190045	1.5147	21.61
170122	1.7033	20.06	180013	1.4630	18.24	180059	0.8712	13.40	180132	1.2192	17.77	190046	1.4143	19.80
170123	1.7172	23.17	180014	1.6410	21.49	180063	1.1133	13.10	180133	1.3321	21.68	190048	1.1254	16.67
170124	1.0038	11.12	180016	1.2498	19.99	180064	1.2154	15.24	180134	1.0956	13.19	190049	0.9682	17.23
170126	0.9277	12.81	180017	1.2719	15.41	180065	1.0311	12.06	180136	1.1655	17.35	190050	1.0587	16.20
170128	0.9646	14.89	180018	1.2845	17.17	180066	1.0038	19.30	180138	1.1655	19.37	190053	1.1151	13.22
170131	1.0846	10.10	180019	1.1635	17.40	180067	1.9537	20.63	180139	1.0331	18.72	190054	1.3637	19.17
170133	0.8935	14.11	180020	1.0889	17.73	180069	1.1159	17.79	180140	0.9801	16.82	190059	0.9281	15.69
170134	0.8935	14.11	180021	1.0602	15.46	180070	1.1350	13.19	180141	1.7587	20.98	190060	1.4180	14.72
170137	1.1867	17.83	180023	0.8648	15.88	180072	1.0971	16.90	180142	1.7748	17.68	190064	1.5435	20.45
170139	0.9665	14.20	180024	1.2656	16.17	180078	1.1261	21.12	180143	1.6771	17.68	190065	1.4662	20.99*
170142	1.3188	14.18	180025	1.1446	14.18	180079	1.1868	15.16	190001	0.8922	17.68	190071	0.9278	14.48

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

CASE MIX INDEX	CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE				
	PROV.	AVG. HOUR.	WAGE	PROV.	MIX INDEX	WAGE	PROV.	MIX INDEX	WAGE	PROV.	MIX INDEX	WAGE	PROV.	MIX INDEX	WAGE		
190148	0.8906	16.63		190238	2.2526		210001	1.3750	20.48		210051	1.3718	22.43		220126	1.1979	22.52
190149	0.9665	17.60		190239	1.2930		210002	1.9731	19.92		210054	1.3449	22.35		220133	0.6689	25.46
190151	0.9874	14.73		190240	0.9593		210003	1.5516	20.34		210055	1.2826	29.25		220135	1.2670	25.65
190152	1.4654	22.21		200001	1.2974	18.05	210004	1.1995	24.29		210056	1.3522	19.27		220136	0.9335	22.96
190156	0.9348	15.75		200002	1.1115	19.36	210005	1.2893	21.49		210057	1.3527	23.83		220137	0.9417	22.48
190158	1.2527	20.46		200003	1.1105	16.96	210006	1.0867	18.94		210058	1.4772	22.08		220162	1.5749	
190160	1.2291	17.10		200006	1.0504	17.66	210007	1.8486	23.10		210059	1.2070	22.68		220163	1.9697	29.11
190161	0.9863	15.57		200007	1.0325	18.80	210008	1.2749	21.18		210060	1.2192			220171	1.7342	24.56
190162	1.1566	20.61		200008	1.2729	21.75	210009	1.9447	20.54		210061	1.1158	17.22		230001	1.1432	19.80
190164	1.1628	15.18		200009	1.8745	22.23	210010	1.0726	18.72		220001	1.3264	21.94		230002	1.2574	22.80
190167	1.0912	16.67		200012	1.1257	18.35	210011	1.3814	21.49		220002	1.4324	24.13		230003	1.1861	19.84
190170	0.9034	14.18		200013	1.1578	18.06	210012	1.7070	20.72		220003	1.0393	16.92		230004	1.6751	23.10
190173	1.3080	23.64		200016	1.0186	18.09	210013	1.3658	19.73		220006	1.3492	22.31		230005	1.2670	18.56
190175	1.4252	19.36		200017		17.29	210015	1.3135	16.19		220008	1.3285	24.47		230006	1.0052	19.10
190176	1.5535	24.06		200018	1.1181	18.54	210016	1.7812	23.87		220010	1.3462	21.86		230007		15.55
190177	1.6845	18.67		200019	1.2339	19.23	210017	1.2263	18.89		220011	1.1325	26.18		230012	0.7495	15.08
190178	0.9682	11.07		200020	1.1906	22.45	210018	1.2192	22.21		220012	1.3273	32.08		230013	1.3269	20.80
190182	1.1484	20.28		200021	1.1093	19.91	210019	1.6597	19.20		220015	1.1643	22.58		230015	1.0862	20.11
190183	1.1619	16.77		200023	0.8613	16.17	210022	1.4497	22.64		220016	1.3209	23.38		230017	1.6036	22.28
190184	0.9918	17.20		200024	1.4154	19.43	210023	1.3948	23.19		220017	1.3141	21.52		230019	1.5446	22.26
190185	1.3294	20.14		200025	1.1508	20.23	210024	1.7226	20.60		220019	1.1190	19.56		230020	1.7448	22.13
190186	0.9135	18.76		200026	1.0686	18.12	210025	1.2925	19.59		220020	1.1919	21.42		230021	1.5037	18.96
190190	0.9308	17.46		200027	1.2380	18.57	210026	1.3244	12.13		220023		16.19		230022	1.2020	18.80
190191	1.1525	20.50		200028	0.9559	19.57	210027	1.2645	17.69		220024	1.1824	21.54		230024	1.3908	23.73
190196	0.8609	17.92		200031	1.2491	16.22	210028	1.1840	19.64		220025	1.1445	20.79		230027	1.0593	14.70
190197	1.2134	19.56		200032	1.2931	18.93	210029	1.2401	21.22		220028	1.4832	22.80		230029	1.6432	19.49
190199	1.2359	16.06		200033	1.8163	21.86	210030	1.2537	21.74		220029	1.1952	23.15		230030	1.3297	18.39
190200	1.5590	22.04		200034	1.2552	20.15	210031	1.1427	16.23		220030	1.1366	18.54		230031	1.4167	19.32
190201	1.2161	18.71		200037	1.2116	18.67	210032	1.1936	17.72		220031	1.6739	30.24		230032	1.7052	21.88
190202	1.2084			200038	1.1309	23.39	210033	1.2617	20.81		220033	1.2513	20.07		230034	1.2402	19.05
190203	1.4659	21.74		200039	1.2521	19.86	210034	1.2805	15.73		220035	1.2845	21.64		230035	1.1347	17.91
190204	1.4734	21.46		200040	1.1933	19.55	210035	1.2804	20.27		220036	1.6131	24.65		230036	1.2516	23.21
190205	1.8421	19.66		200043	0.8145	16.72	210037	1.2093	18.31		220038	1.3092	22.65		230037	1.2570	20.47
190206	1.6321	21.70		200044	0.8145	16.72	210038	1.4381	23.50		220041	1.2373	23.47		230038	1.7393	23.53
190207	1.1356	20.51		200050	1.2191	20.12	210039	1.1973	19.99		220042	1.2302	25.08		230040	1.1232	21.44
190208	0.8355	20.01		200051	0.9579	22.15	210040	1.2818	21.90		220046	1.3510	22.71		230041	1.3387	20.31
190218	0.9927	19.75		200052	0.9937	17.21	210043	1.2915	19.65		220049	1.2912	26.00		230042	1.1919	22.10
190227	0.9050			200055	1.0153	18.84	210044	1.3683	22.58		220050	1.1623	22.01		230046	1.9225	25.57
190231	1.4047	15.83		200062	0.9335	17.23	210045	1.1044	11.61		220051	1.1874	21.10		230047	1.3063	21.94
190236	1.5060	19.34		200063	1.1789	19.93	210048	1.3341	23.05		220052	1.2388	23.76		230053	1.5945	25.50
190237	2.1390			200066	1.1319	17.03	210049	1.1474	19.08		220053	1.1723	19.13		230054	1.8701	20.70

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C. HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG.													
	MIX INDEX	HOUR. WAGE												
230055	1.1203	20.79	230116	0.9083	16.54	230186	1.1092	19.53*	230279	0.6318	17.70	240047	1.5659	22.62
230056	0.9351	16.08	230117	1.8494	25.93	230188	1.0835	15.71	230280	1.6338	15.67	240050	1.2141	25.30
230058	1.0864	20.42	230118	1.0877	21.30	230189	0.9337	16.68	230283	1.6069	27.95	240051	0.9178	19.92
230059	1.4296	19.92	230119	1.3276	21.19	230190	0.9231	26.82	230284	1.5182	.	240052	1.2787	20.77
230060	1.4092	19.80	230120	1.1257	18.33	230191	0.9599	19.00	230285	1.0969	.	240053	1.4381	22.96
230062	0.9324	17.15	230121	1.1820	20.32	230193	1.2756	19.71	230286	1.0244	.	240056	1.2534	23.42
230063	.	20.42	230122	.	20.91	230195	1.3302	21.78	230287	1.3972	.	240057	1.8006	24.22
230065	1.3761	22.35	230124	1.1525	20.36	230197	1.3916	24.02	240001	1.5028	24.62	240058	0.9248	14.97
230066	1.3365	22.18	230128	1.3947	24.91	230199	1.0917	19.44	240002	1.7890	22.80	240059	1.0536	23.62
230069	1.2071	23.21	230130	1.6943	23.52	230201	1.2368	17.21	240004	1.5975	25.19	240061	1.7531	27.26
230070	1.5125	20.25	230132	1.4029	26.64	230204	1.4473	25.42	240005	0.8805	17.96	240063	1.4499	23.79
230071	1.1490	22.91	230133	1.2282	17.69	230205	0.9746	14.38	240006	1.1281	25.16	240064	1.3532	23.29
230072	1.2378	20.69	230135	1.1610	22.53	230207	1.2460	20.64	240008	1.0860	17.76	240065	1.0543	12.79
230075	1.4560	20.05	230137	.	19.18	230208	1.2196	16.07	240008	1.1229	20.22	240066	1.2749	23.07
230076	1.4487	24.45	230141	1.6450	22.13	230211	0.9286	18.67	240009	0.9543	16.90	240069	1.1527	19.83
230077	1.9883	21.02	230142	1.2627	22.29	230212	0.9617	23.30	240010	1.9613	23.65	240071	1.1319	20.21
230078	1.1578	17.56	230143	1.2379	16.30	230213	0.9755	15.19	240011	1.1593	20.52	240072	0.9542	21.18
230080	1.2269	19.77	230144	1.0627	22.11	230216	1.6154	20.33	240013	1.2586	20.33	240073	0.8902	16.08
230081	1.2121	19.03	230145	1.1073	20.25	230217	1.2416	21.27	240014	1.0914	23.00	240075	1.1861	21.26
230082	1.0448	18.30	230146	1.3346	20.50	230219	0.8434	19.15	240016	1.3568	20.40	240076	1.0846	21.88
230085	1.2776	20.21	230147	1.3696	21.85	230222	1.3659	22.18	240017	1.1403	18.36	240077	0.9452	15.38
230086	1.0491	18.94	230149	1.2010	20.77	230223	1.2712	21.15	240018	1.2471	20.85	240078	1.5334	23.92
230087	1.0389	18.90	230151	1.4616	22.17	230227	1.4817	23.73	240019	1.3331	22.15	240079	0.9508	18.43
230089	1.3223	23.91	230153	0.9925	19.56	230230	1.5443	22.24	240020	1.1766	21.19	240080	1.6172	24.34
230092	1.3548	20.01	230154	0.8789	15.45	230235	1.0234	16.87	240021	0.9236	18.75	240082	1.0499	18.35
230093	1.1862	20.47	230155	0.9754	17.21	230236	1.3511	24.38	240022	1.1157	21.79	240083	1.1947	19.76
230095	1.1832	17.33	230156	1.6633	24.76	230239	1.1387	18.09	240023	0.9404	21.51	240084	1.3076	22.57
230096	1.0647	22.84	230157	0.9068	20.37	230241	1.1312	19.10	240025	1.1766	18.83	240085	1.0269	22.57
230097	1.6631	21.28	230159	.	20.07	230244	1.3667	21.74	240027	1.0164	19.10	240086	1.0130	16.94
230099	1.1334	21.19	230162	0.9980	21.46	230253	0.9338	20.59	240028	.	19.79	240087	1.1033	18.83
230100	1.1975	17.13	230165	1.8188	23.01	230254	1.2808	21.94	240029	1.1447	21.13	240088	1.3565	21.69
230101	1.0859	20.09	230167	1.7813	21.50	230257	0.9954	19.70	240030	1.2686	18.85	240089	0.9810	20.72
230103	0.9854	22.77	230169	1.3470	23.07	230259	1.1211	22.24	240031	0.9686	18.16	240090	1.0609	19.30
230104	1.6193	23.15	230171	0.9830	13.39	230264	1.4357	17.13	240036	1.5891	22.25	240093	1.2532	18.71
230105	1.7578	21.52	230172	1.2261	20.64	230269	1.3187	23.31	240037	1.0051	19.23	240094	0.9189	20.94
230106	1.1915	20.80	230174	1.3655	23.03	230270	1.2247	22.62	240038	1.4968	25.31	240096	1.0387	20.16
230107	0.9343	16.60	230175	2.7449	16.89	230273	1.5773	22.92	240040	1.3177	20.48	240097	1.0242	24.27
230108	1.4244	18.86	230176	1.2172	22.78	230275	0.5155	17.75	240041	1.1214	19.29	240098	0.9402	21.35
230110	1.3532	18.98	230178	0.9947	16.92	230276	0.5135	21.37	240043	1.2418	17.73	240099	1.0571	14.46
230113	.	14.94	230180	1.1004	15.88	230277	1.3005	23.15	240044	1.1411	18.84	240100	1.2704	20.83
230115	0.9632	18.41	230184	1.2876	19.06	230278	.	18.21	240045	1.1379	21.14	240101	1.1726	19.21

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	
	MIX	INDEX	MIX	INDEX		MIX	INDEX	MIX	INDEX		MIX	INDEX	MIX	INDEX		MIX	INDEX	MIX	INDEX
240154	0.9861	17.58	250023	0.9100	13.91	250079	0.8718	16.27	250149	0.9670	12.96	260054	1.3049	20.02	260120	1.1535	16.38	1.5355	1.1535
240155	0.9382	19.88	250024	0.9331	12.71	250081	1.2885	17.33	250150	1.7338		260055	0.9769	12.01	260122	1.0944	14.97	1.0944	1.0944
240157	0.9796	17.42	250025	1.0576	19.04	250082	1.5886	16.10	260001	1.7310	18.10	260057	1.0375	17.46	260123	0.9832	14.64	0.9832	0.9832
240160	0.9985	15.95	250027	0.9856	14.95	250083	0.9078	14.26	260002	1.3519	22.12	260059	1.2131	16.10	260127	1.1142	18.36	1.1142	1.1142
240161	0.9772	15.80	250029	0.8439	16.48	250084	1.1572	17.02	260003	1.1104	14.66	260061	1.0893	14.72	260128	1.0236	13.05	1.0236	1.0236
240162	1.0664	16.63	250030	0.9057	17.36	250085	0.9496	14.38	260004	0.9092	13.01	260062	1.1842	20.15	260131	1.1615	17.77	1.1615	1.1615
240163	0.9685	18.83	250031	1.1993	17.97	250088	0.9698	17.87	260005	1.5319	19.56	260063	1.0409	18.23	260134	1.1753	16.28	1.1753	1.1753
240166	1.0868	17.32	250032	1.2706	17.13	250089	1.0825	13.42	260006	1.5269	19.75	260064	1.3153	16.59	260137	1.7529	17.95	1.7529	1.7529
240169		16.67	250033	0.9662	17.83	250093	1.1749	15.20	260008	0.9459	13.85	260065	1.7721	19.44	260138	1.8777	22.65	1.8777	1.8777
240170	1.0880	18.88	250034	1.5059	16.70	250094	1.3028	18.08	260009	1.3027	18.51	260066	1.0201	14.96	260141	1.9575	19.16	1.9575	1.9575
240171	0.9467	17.29	250035	0.8318	15.24	250095	0.9666	17.00	260011	1.5625	19.10	260067	0.8996	14.22	260142	1.1147	17.12	1.1147	1.1147
240172	0.9243	18.28	250036	0.9373	15.84	250096	1.2288	19.07	260012	1.0105	14.36	260068	1.6754	20.24	260143	1.0674	12.79	1.0674	1.0674
240173	0.9561	17.26	250037	0.9013	15.43	250097	1.2227	16.99	260013	1.1272	15.99	260070	0.9982		260147	0.9506	14.08	0.9506	0.9506
240179	0.9728	17.51	250038	0.9448	16.85	250098	0.8736	13.13	260014	0.7243		260073	1.0537	14.26	260148	0.8693	11.87	0.8693	0.8693
240184	0.9966	15.38	250039	1.0126	14.16	250099	1.2369	14.85	260015	1.1808	16.58	260074	1.2874	19.03	260158	1.0756	12.30	1.0756	1.0756
240187	1.2630	19.92	250040	1.3202	17.34	250100	1.3065	17.17	260017	1.1993	16.79	260077	1.7862	18.65	260159	0.9736	20.32	0.9736	0.9736
240193	0.9661	17.82	250042	1.2329	16.39	250101	0.9552	18.47	260018	0.8930	12.01	260078	1.1331	15.64	260160	1.1133	15.84	1.1133	1.1133
240196	0.7807	24.35	250043	0.8712	16.07	250102	1.5108	23.93	260019	1.1483	18.61	260079	1.0014	14.30	260162	1.6546	19.57	1.6546	1.6546
240200	0.9272	14.34	250044	0.9680	16.12	250104	1.4599	18.25	260020	1.7749	20.51	260080	0.9773	13.54	260163	1.3117	16.42	1.3117	1.3117
240205	0.9243		250045	1.2067	22.08	250105	0.9041	14.94	260021	1.3795	22.10	260081	1.5736	21.01	260164	0.8809	14.94	0.8809	0.8809
240206	0.8234		250047	0.9759	13.37	250107	1.5157	15.15	260022	1.1850	17.25	260082	1.1306	15.94	260166	1.2189	20.10	1.2189	1.2189
240207	1.1594	24.11	250048	1.5786	16.89	250109	0.8783	22.16	260023	1.3634	16.47	260085	1.5483	20.47	260172	0.9460	15.42	0.9460	0.9460
240210	1.2491	24.22	250049	0.8829	11.67	250112	0.9694	15.36	260024	0.9407	15.24	260086	0.9234	14.32	260173	1.0151	12.85	1.0151	1.0151
240211	0.9874	19.74	250050	1.2004	14.39	250117	1.0304	16.12	260025	1.3070	15.49	260091	1.6738	20.00	260175	1.1562	16.90	1.1562	1.1562
250001	1.6112	18.42	250051	0.8618	9.35	250119	1.0912	15.22	260027	1.6845	20.64	260094	1.2029	18.01	260176	1.5718	26.87*	1.5718	1.5718
250002	0.8541	17.25	250057	1.1764	15.92	250120	1.1700	15.34	260029	1.1663	19.75	260095	1.3973	19.69	260177	1.2878	21.26	1.2878	1.2878
250003	1.0047	17.65	250058	1.1864	15.53	250122	1.1738	18.94	260030	1.0946	12.51	260096	1.5339	23.03	260178	1.5350	19.66	1.5350	1.5350
250004	1.5584	17.89	250059	1.0693	16.28	250124	0.9027	13.18	260032	1.7893	20.20	260097	1.1362	16.56	260179	1.6138	21.49	1.6138	1.6138
250005	0.9859	16.90	250061	0.8374	11.03	250125	1.3343	20.89	260034	0.9603	17.42	260100	0.9513	15.70	260180	1.6375	20.07	1.6375	1.6375
250007	1.2467	19.29	250063	0.8472	13.25	250126	0.9689	18.24	260035	0.9701	13.11	260103	1.3726	18.60	260186	1.6400	19.32	1.6400	1.6400
250008	1.0048	14.18	250065	0.8716	12.89	250127	0.8221		260036	0.9895	16.74	260104	1.6047	21.01	260188	1.2131	20.64	1.2131	1.2131
250009	1.3292	18.56	250066	0.8898	15.68	250128	1.0216	14.00	260039	1.0788	14.19	260105	1.8093	24.72	260189	0.8520	11.30	0.8520	0.8520
250010	0.9977	13.39	250067	1.1539	16.41	250131	1.0306	12.61	260040	1.6310	17.31	260107	1.4582	19.84	260190	1.1988	18.52	1.1988	1.1988
250012	0.9786	14.16	250068	0.8249	13.68	250134	0.9418	17.07	260042	1.0374	18.76	260108	1.8731	19.46	260191	1.3262	17.98	1.3262	1.3262
250015	0.9911	13.53	250069	1.2716	17.90	250136	0.8988	18.97	260044	0.9634	15.99	260109	1.0518	13.91	260193	1.2305	21.16	1.2305	1.2305
250017	1.0353	17.94	250071	0.8828	14.38	250138	1.2422	18.40	260047	1.5740	19.01	260110	1.6778	17.84	260195	1.1982	17.72	1.1982	1.1982
250018	0.8896	11.93	250072	1.4487	18.22	250141	1.2465	19.01	260048	1.3286	20.09	260113	1.2672	14.68	260197	1.2405	19.28	1.2405	1.2405
250019	1.5527	16.74	250076		10.51	250145	0.8594	10.25	260050	1.0042	15.69	260115	1.1526	19.23	260198	1.2928	11.98	1.2928	1.2928
250020	0.9604	13.45	250077	0.9834	12.26	250146	0.9408	14.49	260052	1.3534	18.06	260116	1.0764	16.28	260199	1.1747	20.53	1.1747	1.1747
250021	0.9933	9.43	250078	1.5177	15.63	250148	1.0949	18.10	260053	1.1619	15.22	260119	1.1354	16.88	260205	1.4868	17.62	1.4868	1.4868

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	
	MIX	INDEX	MIX	INDEX		MIX	INDEX	MIX	INDEX		MIX	INDEX	MIX	INDEX		MIX	INDEX	MIX	INDEX
260206	3.5316		270079	0.9307	15.69	280048	1.0610	15.87	280105	1.3280	18.66	300003	1.8880	22.91	310019	1.6477	24.05		
270002	1.3163	29.00	270080	1.0688	16.32	280049	1.1344	18.36	280106	0.9652	16.12	300005	1.2652	20.75	310020	1.4285	24.18		
270003	1.1745	22.10	270081	0.9728	15.63	280050	0.9190	16.64	280107	1.0640	13.33	300006	1.1972	23.78	310021	1.6599	23.94		
270004	1.7340	19.63	270082	1.0769	17.34	280051	0.9767	15.63	280108	1.1057	17.56	300007	1.1496	20.77	310022	1.3049	21.27		
270006	0.8753	16.02	270083	1.0248	18.44	280052	1.0544	14.08	280109	0.9708	12.68	300008	1.1617	20.77	310024	1.3490	24.24		
270007	1.0201	11.31	270084	0.9263	16.62	280054	1.2303	18.80	280110	0.9881	12.75	300009	1.0513	18.06	310025	1.2385	24.35		
270009	1.0858	17.23	280001	1.0557	17.35	280055	0.9476	13.57	280111	1.3031	21.88	300010	1.3185	19.39	310026	1.3332	23.55		
270011	1.0194	20.27	280003	2.1265	22.32	280056	0.8578	12.65	280114	0.9370	15.72	300011	1.3296	22.43	310027	1.3242	21.88		
270012	1.5776	19.73	280005	1.3927	19.24	280057	0.9221	18.05	280115	0.9539	16.70	300012	1.3252	24.57	310028	1.2710	23.46		
270014	1.9206	19.09	280009	1.7899	19.81	280058	1.1285	19.67	280117	1.0304	17.73	300013	1.1199	19.12	310029	1.8589	22.66		
270016	0.8704	19.67	280010	0.8079	17.49	280060	1.5675	19.75	280118	0.9359	16.87	300014	1.2241	20.33	310031	2.8282	26.16		
270017	1.2553	21.08	280011	0.8768	15.86	280061	1.3985	17.16	280119	0.8813		300015	1.1925	20.49	310032	1.2800	24.35		
270019	1.1179	18.11	280013	1.7399	22.81	280062	1.1417	14.49	280123	0.8947	14.06	300016	1.2015	21.87	310034	1.2957	23.27		
270021	1.0774	17.18	280014	0.9194	15.96	280064	0.9605	16.30	280125	1.2270	16.13	300017	1.4332	21.66	310036	1.1769	20.19		
270023	1.2742	22.26	280015	1.0055	17.03	280065	1.2540	19.29	290001	1.7238	22.82	300018	1.3174	21.24	310037	1.3727	27.78		
270026	0.9444	17.51	280017	1.0439	14.21	280066	1.0137	11.66	290002	0.9215	22.88	300019	1.2062	20.98	310038	1.9845	26.72		
270027	1.0309	13.14	280018	0.9921	15.13	280068	0.8544	9.49	290003	1.6788	22.88	300020	1.3569	21.92	310039	1.2730	22.17		
270028	1.1116	21.15	280020	1.7874	19.97	280070	0.9526	17.74	290005	1.3091	19.49	300021	1.1376	18.62	310040	1.2261	26.15		
270029	0.9261	16.57	280021	1.1393	17.10	280073	0.9819	17.42	290006	1.2330	21.81	300022	1.1045	18.35	310041	1.3095	24.90		
270032	1.1138	17.74	280022	0.9370	16.72	280074	1.0434	16.43	290007	1.6320	29.77	300023	1.4287	22.12	310042	1.2518	23.25		
270033	0.8100	16.96	280023	1.3767	25.85	280075	1.1198	15.33	290008	1.1991	20.62	300024	1.2956	19.91	310043	1.1489	21.90		
270035	0.9560	16.83	280024	0.9506	14.22	280076	1.1016	14.85	290009	1.6409	23.36	300028	1.2847	17.41	310044	1.3209	21.67		
270036	0.9083	14.25	280025	0.9383	15.59	280077	1.2257	19.21	290010	1.1177	15.64	300029	1.5945	22.57	310045	1.4617	28.49		
270039	1.0428	15.94	280026	1.0401	16.69	280079	0.9470	10.45	290011	0.9665	20.16	300033	1.0874	17.19	310047	1.3298	25.11		
270040	1.1301	18.81	280028	1.0583	17.32	280080	1.0743	15.33	290012	1.3568	21.83	300034	2.1189	25.52	310048	1.2895	23.61		
270044	1.0627	16.77	280030	1.1040	23.13	280081	1.6635	21.08	290013	1.0146	18.27	310001	1.7580	28.13	310049	1.2085	24.83		
270048	0.9847	17.01	280031	1.0339	13.57	280082	0.9945	14.34	290014	1.0345	18.97	310002	1.8321	28.34	310050	1.3112	25.17		
270049	1.7311	22.24	280032	1.3348	18.90	280084	0.9599	12.58	290015	1.0872	14.35	310003	1.3223	29.11	310051	1.4177	27.13		
270050	1.0823	16.71	280033	0.9923	15.76	280085		20.43	290019	1.3051	21.25	310005	1.3372	22.11	310052	1.2477	22.93		
270051	1.3362	20.27	280035	1.0577	15.92	280088		20.30	290020	0.9228	20.87	310006	1.2911	21.60	310054	1.3222	26.17		
270052	1.2854	21.13	280038	1.0720	17.09	280090		14.14	290022	1.6276	24.55	310008	1.3617	23.51	310057	1.2566	21.17		
270058	0.9740	14.75	280039	1.0240	16.04	280091	1.0634	15.84	290027	0.8971	16.78	310011	1.2150	23.20	310061	1.2297	23.26		
270059	0.7770	14.75	280040	1.7213	19.53	280092	1.0073	14.19	290029	0.9152		310012	1.6329	26.52	310062		22.91		
270060	0.9697	15.27	280041	0.9411	16.41	280094	0.9541	17.69	290032	1.4460	22.84	310013	1.3374	21.23	310063	1.3701	21.90		
270063	1.0414	12.61	280042	1.0223	16.12	280097	1.0200	14.17	290038	0.8689	20.67	310014	1.6575	27.46	310064	1.3388	24.86		
270073	1.2129	14.46	280043	1.0169	16.66	280098	0.9236	13.00	290039	1.3617	25.39	310015	2.0201	27.43	310067	1.3359	25.09		
270074	0.8911		280045	1.0114	16.90	280101	1.0304	13.53	290041	1.2968		310016	1.2890	24.38	310069	1.3380	23.75		
270075	0.9208		280046	1.0452	17.92	280102		14.01	290043	1.4085		310017	1.3423	25.79	310070	1.3766	26.09		
270076	0.8683		280047	1.0712	18.34	280104	0.9154	13.28	300001	1.5543	22.09	310018	1.1254	22.84	310072	1.3529	21.76		

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999 HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG.																
	MIX INDEX	HOURLY WAGE	INDEX														
310073	1.6662	28.51	320011	1.1635	20.06	330007	1.3239	19.56	330066	1.4015	37.25	330133	1.4015	37.25	330201	1.6150	32.11
310074	1.4017	23.83	320012	1.0161	16.44	330008	1.3648	20.94	330067	1.1921	18.71	330135	1.1921	18.71	330202	1.2954	31.44
310075	1.3322	23.33	320013	1.2033	22.96	330009	1.2478	30.69	330072	1.3899	30.80	330136	1.3320	18.24	330203	1.4145	20.76*
310076	1.4861	30.08	320014	1.0710	16.36	330010	1.3039	17.45	330073	1.2028	16.29	330141	1.7844	19.14	330204	1.4205	29.44
310077	1.9989	25.25	320015	1.1670	20.54	330011	1.2557	18.30	330074	1.2902	18.00	330141	1.3349	26.50	330205	1.2419	20.58
310078	1.3604	23.88	320016	1.0924	18.64	330012	1.2482	32.76	330075	1.0712	17.23	330144	0.9514	14.06	330208	1.2196	26.18
310081	1.3165	22.08	320018	1.4866	18.85	330013	2.0884	19.08	330078	1.4088	16.79	330148	1.0294	16.82	330209	1.1879	23.99
310083	1.2091	23.89	320019	1.4324	24.47	330014	1.3548	32.34	330079	1.1676	17.46	330151	1.1133	16.07	330211	1.2026	19.51
310084	1.2832	26.67	320021	1.7040	17.87	330016	1.0280	16.97	330080	1.2833	29.27	330152	1.4507	30.54	330212	1.0308	21.77
310086	1.2428	22.17	320022	1.1678	16.18	330019	1.3322	35.98	330084	1.0903	18.04	330153	1.6757	18.97	330213	1.0956	18.77
310087	1.3332	20.72	320023	0.9239	18.05	330020	1.0410	15.55	330085	1.2357	20.29	330154	1.7681	22.08	330214	1.8054	36.44
310088	1.2256	22.32	320030	1.1665	16.55	330024	1.3047	24.40	330086	1.3374	31.30	330157	1.3655	22.08	330215	1.1628	19.69
310090	1.3837	23.83	320031	0.9716	19.68	330025	1.7669	34.17	330088	1.0435	25.66	330158	1.4573	25.76	330218	1.1070	21.48
310091	1.2506	22.80	320032	0.9893	18.81	330025	1.1203	16.20	330090	1.5198	19.40	330159	1.2553	19.15	330219	1.5277	23.99
310092	1.3627	20.52	320033	1.0647	25.08	330027	1.3967	33.47	330091	1.3988	19.10	330160	1.4835	32.78	330221	1.4119	27.85
310093	1.2382	22.43	320035	0.9774	21.52	330028	1.4167	28.21	330092	1.0016	14.07	330162	1.3018	27.12	330222	1.2932	18.37
310096	2.0551	25.16	320037	1.2047	17.03	330029	1.0048	18.16*	330094	1.2723	17.56	330163	1.2807	18.78	330223	1.0727	17.62
310105	1.2277	25.59	320038	1.1866	16.81	330030	1.5264	17.50	330095	1.2586	20.11	330164	1.3877	19.86	330224	1.2910	19.64
310108	1.4164	22.48	320046	1.4604	18.32	330033	1.2438	18.53	330096	1.1052	17.96	330166	1.0961	15.10	330225	1.1884	25.58
310110	1.2388	21.83	320048	1.2998	19.96	330034	1.2438	31.40	330097	1.1926	16.22	330167	1.7307	29.36	330226	1.3214	16.80
310111	1.2815	21.11	320056	0.9230	23.99	330036	1.2491	27.07	330100	1.0517	27.07	330169	1.4082	37.27	330229	1.2677	16.80
310112	1.3102	23.67	320057	0.9771	16.11	330037	1.1393	16.11	330101	1.7645	32.41	330171	1.2626	25.53	330230	1.2694	29.76
310113	1.2462	23.68	320058	0.9443	16.25	330038	1.0977	16.25	330102	1.3654	17.58	330175	1.1803	17.33	330231	1.0236	30.09
310115	1.2716	21.73	320059	1.0804	24.52	330041	1.2947	24.52	330103	1.2136	15.72	330177	0.9549	17.29	330232	1.2275	17.91
310116	1.3459	22.98	320060	0.9844	28.75*	330043	1.3001	28.75*	330104	1.3505	31.65	330179	0.8666	13.50	330233	1.4892	30.92
310118	1.3484	26.46	320061	1.2609	20.02	330044	1.2702	20.02	330106	1.6789	40.27	330180	1.2308	16.88	330234	2.3628	35.18
310119	1.7942	33.67	320062	0.8443	28.08	330045	1.3692	28.08	330107	1.2277	28.56	330181	1.3089	32.52	330235	1.1567	21.08
310120	1.1620	23.97	320063	1.2658	18.32	330046	1.4433	32.42	330108	1.2557	17.36	330182	2.5752	32.94	330236	1.4014	29.59
310528	1.4071	16.79	320065	1.1439	16.79	330047	1.2317	18.18	330111	1.0706	19.53	330183	1.4721	19.92	330238	1.2193	15.62
310529	1.4071	16.79	320067	0.9611	33.87	330048	1.2598	17.88	330114	0.9086	17.35	330184	1.3680	30.04	330239	1.2077	17.45
310534	0.5907	17.48	320068	0.8789	17.48	330049	1.1966	19.50	330115	1.1376	17.44	330185	1.2876	25.61	330240	1.3427	29.71
310832	0.8079	13.01	320069	0.9685	13.01	330053	1.2453	17.44	330116	0.8466	24.46	330188	1.2389	20.96	330241	2.0322	24.61
310850	0.7641	13.01	320070	0.9979	36.11	330055	1.6309	36.11	330118	1.1944	20.69	330189	0.9157	15.13	330242	1.3667	28.26
310858	0.8079	13.01	320074	1.1344	19.34	330056	1.3738	30.45	330119	1.6632	34.84	330191	1.2923	18.62	330245	1.6763	17.68
320001	1.5222	19.12	320079	1.1973	18.28	330057	1.7171	18.75	330121	1.0206	16.10	330193	1.4203	36.55	330246	1.3462	28.11
320002	1.3286	22.62	330001	1.1783	26.55	330058	1.2879	17.00	330122	1.0280	20.82	330194	1.8635	34.68	330247	0.9357	28.53
320003	1.1472	15.95	330002	1.3658	26.54	330059	1.5454	34.17	330125	1.8727	19.85	330195	1.6392	33.33	330249	1.1696	16.27
320004	1.2303	18.58	330003	1.3551	19.41	330061	1.2623	25.73	330126	1.2024	23.79	330196	1.2994	17.66	330250	1.3145	19.58
320005	1.3699	21.61	330004	1.2751	17.61	330062	1.1007	17.61	330127	1.3854	31.90	330197	1.0855	30.62	330251	1.3200	18.41
320006	1.4044	18.90	330005	1.6335	24.83	330064	1.3544	33.13	330128	1.3017	29.02	330198	1.4001	24.60	330252	1.2262	19.74
320009	1.6940	18.29	330006	1.3530	25.06	330065	1.2485	19.89	330132	1.1944	15.76	330199	1.3274	28.76	330259	1.4464	26.27

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999 HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	
	MIX INDEX	AVG. HOUR. WAGE	MIX INDEX	AVG. HOUR. WAGE		MIX INDEX	AVG. HOUR. WAGE	MIX INDEX	AVG. HOUR. WAGE		MIX INDEX	AVG. HOUR. WAGE	MIX INDEX	AVG. HOUR. WAGE		MIX INDEX	AVG. HOUR. WAGE	MIX INDEX	AVG. HOUR. WAGE
330261	1.2037	25.72	330393	1.8382	26.50	340037	1.1033	16.66	340098	1.5952	21.41	340158	1.0371	18.14	350042	1.0451	16.74		
330263	0.9766	20.41	330394	1.5304	19.24	340038	1.0927	17.38	340099	1.0903	16.83	340159	1.1720	17.39	350043	1.5466	16.99		
330264	1.1703	22.87	330395	1.3654	32.87	340039	1.2714	20.59	340101	1.0078	14.00	340160	1.0931	16.18	350044	0.8810	10.22		
330265	1.3006	18.02	330396	1.2228	34.86	340040	1.7834	20.43	340104	0.8760	13.05	340162			350047	0.9607	14.46		
330267	1.4341	24.52	330397	1.3012	33.91	340041	1.2050	15.14	340105	1.4836	20.30	340164	1.3481	21.25	350049	1.1631	14.80		
330268	0.9369	13.06	330398		28.77	340042	1.2299	16.93	340106	1.1165	17.72	340166	1.3044	20.04	350050	0.8465	11.49		
330270	1.9561	34.43	330399	1.2690	32.91	340044	1.0557	18.87	340107	1.2071	18.02	340168	0.5101	15.29	350051	0.9311	17.73		
330273	1.3015	23.15	330400	0.8784		340045	0.9666	13.05	340109	1.3153	18.77	340171	1.1444	21.60	350053	1.0115	14.94		
330275	1.9700	19.05	340001	1.4103	18.18	340047	1.8747	20.06	340111	1.0635	16.33	340173	1.2105	19.33	350055	1.0247	14.57		
330276	1.2323	18.29	340002	1.6732	20.89	340049	0.7283	19.21	340112	0.9904	14.76	350001	0.9882	14.91	350056	0.9278	14.83		
330277	1.1145	18.32	340003	1.0954	20.25	340050	1.1213	20.01	340113	1.8636	21.29	350002	1.8088	17.53	350058	0.9796	15.94		
330279	1.3749	19.60	340004	1.4557	19.07	340051	1.2485	16.56	340114	1.5492	21.22	350003	1.2254	18.25	350060	0.8490	10.37		
330285	1.8612	23.53	340005	1.0289	15.82	340052	1.0005	22.82	340115	1.5723	19.76	350004	1.9072	20.65	350061	1.0017	15.73		
330286	1.2781	26.76	340006	0.9746	16.98	340053	1.5846	20.95	340116	1.8238	20.42	350005	1.0417	18.38	350063	0.9667			
330290	1.7529	33.51	340007	1.1555	17.24	340054	1.1409	15.60	340119	1.2150	18.85	350006	1.5536	18.41	350064	0.7558			
330293	1.1720	16.22	340008	1.1423	21.29	340055	1.2622	19.60	340120	1.0746	16.33	350007	0.8587	13.33	350069	1.2802			
330297	1.0131		340009		20.50	340060	1.0867	18.71	340121	1.0462	15.04	350008	1.1682	20.48	360001	1.2943	17.08		
330304	1.2300	26.77	340010	1.3354	18.34	340061	1.7364	21.54	340123	1.1160	16.91	350009	1.1136	19.16	360002	1.1397	18.01		
330306	1.3163	27.38	340011	1.1279	13.66	340063	1.0093	17.02	340124	1.0777	15.58	350010	1.0119	16.28	360003	1.7057	22.75		
330307	1.2304	21.07	340012	1.2312	18.87	340064	1.1283	20.71	340125	1.4295	19.72	350011	1.8859	18.20	360006	1.9148	21.80		
330314	1.3586	24.54	340013	1.2499	20.17	340065	1.2215	17.54	340126	1.3008	18.81	350012	1.1412	15.70	360007	1.0242	18.09		
330316	1.3137	27.61	340014	1.5206	20.57	340067	1.0003	19.38	340127	1.1952	19.39	350013	1.0371	16.46	360008	1.3481	18.54		
330327	0.8647	16.46	340015	1.2769	20.16	340068	1.1733	16.63	340129	1.2433	20.46	350014	0.9712	16.84	360009	1.5341	18.93		
330331	1.3091	31.62	340016	1.1190	17.54	340070	1.2877	19.78	340131	1.4399	19.79	350015	1.7379	16.34	360010	1.2338	19.38		
330332	1.2556	27.69	340017	1.2086	19.42	340071	1.0822	17.14	340132	1.3407	17.34	350017	1.2975	17.63	360012	1.3386	19.99		
330333	1.2826	29.19	340018	1.0798	14.09	340072	1.2078	16.74	340133	1.0257	16.48	350018	1.0471	14.49	360013	1.1574	20.60		
330336	1.2323	29.77	340019	0.9708	14.90	340073	1.2972	21.98	340137	1.0849	21.02	350019	1.6648	19.31	360014	1.1009	20.24		
330338	1.1713	22.46	340020	1.1758	18.63	340075	1.1567	18.71	340138	1.1262	20.76	350021	1.0506	16.29	360016	1.5929	17.81		
330340	1.1929	28.84	340022	1.0713	17.82	340080		22.25	340141	1.6889	21.38	350023	0.9937	17.90	360017	1.9321	21.75		
330350	1.6644	30.89	340023	1.3871	18.54	340084	1.0707	17.15	340142	1.1665	17.15	350024	0.9642	14.75	360018	1.6759	23.92		
330353	1.3479	32.20	340024	1.1993	17.38	340085	1.1699	17.35	340143	1.4587	21.36	350025	0.9326	17.12	360019	1.2030	18.71		
330354	1.6425		340025	1.1962	17.26	340087	1.0973	17.39	340144	1.2427	20.91	350027	0.9559	15.08	360020	1.5244	21.78		
330357	1.3539	36.59	340027	1.1833	18.08	340088	1.3505	21.02	340145	1.3092	20.11	350029	0.8521	13.52	360024	1.2677	19.85		
330372	1.2479	28.85*	340028	1.5802	18.48	340089	0.9797	13.85	340146	1.1830	15.92	350030	1.0705	17.72	360025	1.3829	20.36		
330381	1.2237	31.01	340030	2.0520	21.14	340090	1.1476	17.06	340148	1.2067	19.68	350033	0.9207	14.90	360026	1.3590	18.22		
330385	1.2605	35.67	340031	0.9218	14.70	340091	1.6272	20.59	340149	1.2671	18.59	350034	0.9218	18.72	360027	1.4750	21.04		
330386	1.1316	17.64	340032	1.4555	20.00	340093	1.0292	16.33	340151	1.1889	16.73	350035	0.9169	10.46	360028	1.4691	17.02		
330387	0.9061		340034	1.2593		340094	1.3752	19.04	340153	1.8514	20.64	350038	1.0670	17.07	360029	1.1467	18.76		
330389	1.8502	30.25	340035	1.0683	20.23	340096	1.1811	17.82	340155	1.4057	20.58	350039	0.9504	17.64	360030	1.2387	17.57		
330390	1.3637	31.16	340036	1.0953	18.22	340097	1.1358	18.84	340156	0.8353		350041	1.1019	14.67	360031	1.2614	19.39		

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999 HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE			CASE														
	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	PROV.	MIX INDEX	AVG. HOUR. WAGE	
370163	0.9450	17.64	380020	1.4424	20.15	380087	1.2587	16.53	390043	1.1751	17.26	390095	1.2478	16.33	390147	1.2027	20.97	
370165	1.1226	13.09	380021	1.2501	21.16	380088	0.9243	21.52	390044	1.6352	20.28	390096	1.4937	19.12	390150	1.1454	20.73	
370166	1.0946	17.28	380022	1.1707	22.64	380089	1.2392	19.53	390045	1.6020	18.56	390097	1.2579	23.60	390151	1.2245	21.60	
370169	1.0537	12.52	380023	1.1767	20.55	380090	1.3232	29.27	390046	1.5717	20.73	390100	1.6324	20.78	390152	1.0777	20.33	
370170	1.0516		380025	1.3340	26.37	380091	1.5521	27.56	390047	1.5521	27.67	390101	1.2194	17.95	390153	1.2248	23.70	
370171	0.9963		380026	1.0941	20.47	390001	1.5409	19.30	390048	1.5409	19.09	390102	1.3788	19.05	390154	1.2094	17.40	
370172	0.9438		380027	1.2669	20.86	390002	1.3556	21.83	390049	1.5583	21.12	390103	1.1332	18.43	390156	1.4322	21.85	
370173	1.1305		380029	1.1923	19.42	390003	1.2304	17.14	390050	2.1184	22.88	390104	1.0109	15.90	390157	1.3607	19.66	
370174	0.9456		380031	0.9295	23.32	390004	1.3919	19.23	390051	2.1193	25.79	390106	1.0792	16.67	390160	1.2339	21.48	
370176	1.2063	15.95	380033	1.7558	25.25	390005	1.1055	17.35	390052	1.1752	20.93	390107	1.4337	19.52	390161	1.0720	16.48	
370177	0.9538	11.25	380035	1.2490	22.41	390006	1.8380	20.30	390054	1.2292	17.89	390108	1.3818	21.09	390162	1.4937	21.41	
370178	1.0145	10.57	380036		27.16	390007	1.1621	21.75	390055	1.8812	24.22	390109	1.1714	16.46	390163	1.2989	16.80	
370179	0.8841	17.28	380037	1.2564	21.92	390008	1.1829	17.83	390056	1.1545	17.78	390110	1.6077	21.53	390164	2.1680	24.68	
370180	0.9414		380038	1.3121	26.09	390009	1.7853	20.65	390057	1.2900	20.21	390111	1.9598	27.52	390166	1.1239	19.04	
370183	1.0832	10.29	380039	1.2788	23.17	390010	1.2237	17.51	390058	1.3441	19.74	390112	1.2207	14.94	390167		19.90	
370186	0.9477	13.62	380040	1.2224	26.27	390011	1.3618	18.17	390061	1.4577	21.24	390113	1.2392	19.19	390168	1.4322	18.74	
370190	1.4549	14.14	380042	0.9451	21.12	390012	1.1598	20.65	390062	1.1868	16.67	390114	1.1875	19.63	390169	1.4256	20.24	
370192	1.3555	18.46	380047	1.6747	23.07	390013	1.2838	19.27	390063	1.8771	20.01	390115	1.3878	23.35	390170	1.6593	26.59	
370196	0.8606		380048	0.9866	17.59	390015	1.1147	13.13	390065	1.2183	19.94	390116	1.3074	21.49	390173	1.1623	18.54	
370198		21.31	380050	1.4245	20.39	390016	1.2108	16.99	390066	1.7291	19.85	390117	1.1923	17.94	390174	1.6421	25.42	
370199	0.8460		380051	1.6005	22.36	390017	1.1680	16.75	390067	1.2630	20.97	390118	1.2260	18.34	390176	1.4218	17.87	
370200	1.1167		380052	1.2346	19.46	390018	1.2446	21.36	390068	1.3352	18.32	390119	1.3516	18.30	390178	1.3214	16.70	
370201	1.5233		380056	1.1446	19.52	390019	1.0960	16.78	390069	1.2268	19.65	390121	1.3953	20.88	390179	1.2722	21.69	
370202	0.8726		380060	1.4007	24.27	390022	1.2621	21.51	390070	1.3969	16.20	390122	1.0574	17.19	390180	1.4437	25.71	
370203	0.9723		380061	1.5383	22.37	390023	1.2729	21.83	390071	1.0708	15.72	390123	1.2557	20.83	390181	1.0951	19.47	
380001	1.2457	20.31	380062	1.0568	20.77	390024	1.1958	24.94	390072	1.0682	16.31	390125	1.2811	16.80	390183	1.1931	17.83	
380002	1.2141	24.02	380063		20.41	390025	0.4921	15.62	390073	1.6461	20.56	390126		20.65	390184	1.1495	20.81	
380003	1.1384	21.78	380064	1.2431	19.98	390026	1.2531	22.39	390074	1.2043	18.48	390127	1.2363	21.77	390185	1.1726	18.88	
380004	1.7735	23.15	380065	1.3768	26.14	390027	1.6967	26.89	390075	0.8141	17.98	390128	1.2387	19.68	390189	1.1611	20.09	
380005	1.1597	24.08	380066	1.2332	22.03	390028	1.8226	22.77	390076	1.2350	20.25	390130	1.1429	17.70	390191	1.1895	16.32	
380007	1.2204	21.27	380068		22.32	390029	2.0542	21.37	390078	1.1633	19.21	390132	1.3477	16.10	390192	1.1508	17.45	
380009	1.8190	25.30	380069	0.9632	19.83	390030	1.3048	17.96	390079	1.8013	18.33	390133	1.7892	23.35	390194	1.2397	20.80	
380010	1.0877	23.75	380072	1.2946	22.64	390032	1.2290	17.80	390081	1.3020	18.80	390135	1.2535	21.58	390195	1.8205	24.69	
380011	1.1279	21.12	380075	0.9634	19.16	390035	1.2915	20.20	390083	1.1651		390136	1.1030	16.97	390196	1.5092		
380013	1.1967	18.68	380078	1.3998	22.36	390036	1.4817	19.99	390084	1.1982	16.40	390137	1.4914	17.57	390197	1.4691	19.27	
380014	1.6863	24.66	380081	0.9866	20.25	390037	1.4177	21.06	390086	1.1481	18.53	390138	1.3171	19.62	390198	1.2532	15.97*	
380017	1.8293	26.06	380082	1.2819	20.99	390039	1.1906	17.10	390088	1.3822	23.62	390139	1.4959	24.45	390199	1.1978	17.05	
380018	1.8422	22.35	380083	1.1537	22.23	390040	1.0206	15.96	390090	1.8116	21.64	390142	1.5731	26.81	390200	0.9382	15.14	
380019	1.2490	22.12	380084	1.2465	24.28	390042	1.5058	22.77	390093	1.1338	18.16	390145	1.4000	20.37	390201	1.2380	20.63	
												390146	1.2747	18.79	390203	1.3449	20.94	

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG.		CASE MIX		PROV.	CASE AVG.		CASE MIX		PROV.	CASE AVG.		CASE MIX		PROV.	CASE AVG.		CASE MIX		PROV.	CASE AVG.		CASE MIX	
	MIX	INDEX	WAGE	INDEX		MIX	INDEX	WAGE	INDEX		MIX	INDEX	MIX	INDEX		WAGE	INDEX	MIX	INDEX		MIX	INDEX	MIX	INDEX
390204	1.2778	20.18	390285	1.6773	400098	1.3040	9.33	420015	1.3625	18.84	420080	1.4061	22.34	430048	1.1084	18.35								
390206	18.40	390286	1.1146	9.85	400102	1.1154	9.85	420016	0.9104	15.62	420082	1.3063	20.47	430049	0.8828	15.54								
390209	1.0418	17.48	390287	1.5519	400103	1.4138	11.21	420018	1.6907	19.74	420083	1.3496	20.15	430051	0.9216	17.06								
390211	1.2274	17.86	390288	1.3223	400104	1.2732	11.07	420019	1.1322	17.00	420085	1.4404	19.96	430054	0.9526	14.73								
390213	1.1661	18.85	390289	1.2775	400105	1.1795	9.30	420020	1.1856	20.94	420086	1.4443	25.72	430056	0.8957	11.76								
390215	1.1898	20.71	390290	1.9170	400106	1.2231	9.31	420023	1.4592	19.49	420087	1.7284	19.14	430057	0.9837	15.44								
390217	1.2172	19.14	390291	1.0064	400109	1.4639	10.98	420026	1.8478	20.35	420088	1.0674	17.19	430060	0.8973	9.04								
390219	1.2817	18.83	390292	1.6512	400110	1.2211	10.33	420027	1.3024	18.85	420089	1.1728	20.25	430064	1.0133	14.44								
390220	1.1341	18.72	390293	1.1807	400111	1.2002	9.56	420030	1.2525	19.15	420091	1.2948	18.87	430066	0.9008	14.36								
390222	1.2828	21.57	400001	1.2704	400112	1.0782	10.18	420031	0.9074	14.19	420093	0.9809	17.47	430073	1.0143	16.11								
390223	1.7600	23.65	400002	1.7014	400113	1.2094	9.22	420033	1.1229	21.73	420095	2.5155		430076	0.9191	12.76								
390224	0.8469	15.30	400003	1.3336	400114	1.0938	9.05	420036	1.2331	17.61	420096	1.7514		430077	1.6721	19.30								
390225	1.2363	18.61	400004	1.2013	400115	1.0871	9.82	420037	1.2653	21.79	430004	0.9633	18.54	430079	0.9080	13.68								
390226	1.7155	21.83	400005	1.1669	400117	1.1337	10.23	420038	1.2437	17.67	430005	1.2825	16.31	430081	0.9463									
390228	1.3762	19.41	400006	1.1930	400118	1.2347	9.44	420039	1.1392	15.84	430007	1.0403	14.11	430082	0.8214									
390231	1.9428	22.75	400007	1.1671	400120	1.3234	9.53	420043	1.1810	19.45	430008	1.1204	17.66	430083	0.8717									
390233	1.3670	19.49	400008	1.0022	400121	0.9227	7.81	420048	1.2222	18.44	430010	1.0599	17.16	430084	0.8880									
390235	1.4497	25.08	400009	0.8818	400122	1.0333	8.19	420049	1.2076	17.58	430011	1.2701	16.98	430085	0.8145									
390236	1.1965	16.24	400011	1.0851	400123	1.2664	7.81	420051	1.5734	19.50	430012	1.2857	17.28	430089	0.8934	17.89								
390237	1.9383	19.52	400012	1.2487	400124	2.9192	12.10	420053	1.1074	16.96	430013	1.2128	18.13	430090	1.5851	21.52								
390238	1.3058	17.82	400013	1.2445	400125	1.0767		420054	1.2681	18.27	430014	1.2999	16.89	430091	1.8060	19.21								
390244	0.9301	15.46	400014	1.3944	410001	1.3868	23.28	420055	1.0334	19.20	430015	1.1567	18.00	430092	2.0606									
390245	1.3389	26.02	400015	1.5550	410004	1.2965	22.48	420056	1.2204	14.87	430016	1.8945	19.48	430093	0.9831									
390246	1.1336	18.97	400016	1.3421	410005	1.2954	23.14	420057	1.1456	15.98	430018	0.9370	14.89	440001	1.1951	14.87								
390247	1.0155	20.95	400017	1.2238	410006	1.2614	23.40	420059	0.9931	15.82	430022	0.8643	13.49	440002	1.6605	19.15								
390249	0.9450	12.79	400018	1.2832	410007	1.6132	22.15	420061	1.1300	16.56	430023	0.9049	12.23	440003	1.2342	18.37								
390256	1.8872	20.95	400019	1.5224	410008	1.2095	23.07	420062	1.1742	17.82	430024	0.9611	15.47	440006	1.3364	19.60								
390258	1.4926	21.92	400021	1.4434	410009	1.3252	24.49	420064	1.1834	16.72	430027	1.7835	19.15	440007	1.0210	12.12								
390260	1.1989	21.95	400022	1.3544	410010	1.1306	26.98	420065	1.3501	19.69	430028	1.1333	18.23	440008	1.0193	17.28								
390262	1.9235	18.24	400024	0.9636	410011	1.2456	25.29	420066	1.0336	15.18	430029	0.9464	16.65	440009	1.1335	17.84								
390263	1.3571	25.47	400026	1.0182	410012	1.8184	24.58	420067	1.2057	18.86	430031	0.8722	13.13	440010	0.9359	19.98								
390265	1.2957	20.36	400027		410013	1.2785	24.51	420068	1.3324	18.50	430033	0.9751	15.30	440011	1.3657	17.69								
390266	1.1667	17.17	400028		410012	1.4861	19.48	420069	1.0437	17.08	430034	0.9643	15.41	440012	1.6469	15.98								
390267	1.2434	21.30	400031		420004	1.8856	19.80	420070	1.2714	18.01	430036	0.9604	13.70	440014	0.9859	15.92								
390268	1.3335	21.35	400032	1.2042	420005	1.0765	17.35	420071	1.3358	19.45	430037	0.9250	16.54	440015	1.8167	18.26								
390270	1.3998	19.09	400044	1.4724	420006	1.0764	18.34	420072	0.9270	13.86	430038	1.0092	13.72	440016	1.0272	15.41								
390272	0.5153		400048	1.1607	420007	1.5934	18.21	420073	1.2990	19.16	430040	1.0441	13.67	440017	1.8057	19.62								
390278	0.6686	18.29	400061	1.7879	420009	1.1757	18.55	420074	0.9703	16.93	430041	0.8894	13.19	440018	1.2741	16.41								
390279	1.0621	14.32	400079	1.2002	420010	1.1485	17.12	420075	0.9049	14.29	430043	1.1838	13.69	440019	1.7622	20.04								
390281	1.3650		400087	1.5059	420011	1.1604	16.57	420078	1.8714	20.73	430044	0.7894	18.50	440020	1.1151									
390284	1.4412		400094	1.0919	420014	1.0098	16.61	420079	1.4533	20.86	430047	1.0486	17.50	440022		15.85								

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE	
	MIX INDEX	AVG. WAGE															
440023	1.0911	15.47	440083	1.0260	14.85	440174	0.9274	17.33	450028	1.4881	18.88	450096	1.4321	17.88	450157	1.0333	15.64
440024	1.3014	18.44	440084	1.1547	13.44	440175	1.1198	20.08	450029	1.6986	17.47	450097	1.3603	19.57	450160	0.9633	16.65
440025	1.1416	15.88	440091	1.6378	19.61	440176	1.3125	18.03	450031	1.3759	22.22	450098	1.0440	20.58	450162	1.2453	20.96
440026	23.06	23.06	440100	0.9811	13.84	440180	1.1300	19.78	450032	1.2417	17.33	450099	1.1798	19.23	450163	1.0142	17.54
440029	1.2727	19.43	440102	1.1448	14.35	440181	0.9170	16.49	450033	1.6071	19.74	450101	1.3395	17.13	450164	1.1251	16.97
440030	1.1742	16.29	440103	1.1448	20.31	440182	0.9915	17.75	450034	1.5566	19.67	450102	1.6849	18.67	450165	0.9870	13.92
440031	1.0699	15.54	440104	1.7583	22.44	440183	1.6054	22.71	450035	1.4408	20.10	450104	1.1458	16.67	450166	0.9901	11.48
440032	0.9957	13.98	440105	0.9719	16.71	440184	1.1707	17.20	450037	1.5433	19.54	450107	1.5558	25.20	450169	13.20	13.20
440033	1.1006	14.53	440109	1.1213	16.04	440185	1.1860	19.39	450039	1.5440	19.81	450108	1.0353	15.63	450170	0.9212	14.30
440034	1.5819	19.55	440110	1.1734	21.17	440186	0.9940	19.39	450040	1.7174	16.85	450109	0.9101	13.81	450176	1.3093	16.97
440035	1.2490	18.90	440111	1.4099	23.24	440187	1.1525	18.97	450042	1.6931	19.89	450110	1.2670	19.58	450177	1.1285	14.92
440039	1.8440	19.94	440114	1.0932	14.50	440189	1.5018	19.08	450044	1.4961	24.80	450111	1.2198	16.04	450178	0.9711	17.85
440040	1.0510	16.37	440115	1.0340	17.45	440192	1.0453	19.08	450046	1.5067	18.65	450112	1.3525	20.98	450184	1.0173	15.56
440041	1.0031	14.66	440120	1.6720	17.20	440193	1.2636	19.08	450047	1.1154	13.45	450113	1.2670	19.64	450185	0.9984	14.07
440046	1.1769	18.17	440125	1.5428	15.66	440194	1.3420	19.87	450050	0.9168	14.77	450118	1.2890	20.28	450187	1.2340	16.69
440047	0.9208	16.66	440130	1.1552	17.82	440197	1.2815	21.96	450051	1.6149	21.02	450119	1.4614	20.46	450188	0.9606	14.39
440048	1.8119	19.45	440131	1.1310	15.50	440200	1.1776	17.96	450052	1.0272	13.89	450121	1.4614	20.46	450191	1.0735	20.12
440049	1.6763	17.93	440132	1.1086	16.66	440203	0.9624	18.34	450053	1.0522	17.05	450123	1.1672	15.76	450192	1.1837	20.38
440050	1.2312	19.13	440133	1.5576	21.53	440206	1.644	16.44	450054	1.6197	22.90	450124	1.7302	22.75	450193	1.9904	23.20
440051	0.9193	13.19	440135	1.1865	19.20	440210	1.0245	11.02	450055	1.1121	15.04	450126	1.3316	21.72	450194	1.3376	20.52
440052	0.9791	16.65	440137	1.1342	14.56	440211	1.6187	19.58	450056	1.6239	18.10	450128	1.2125	18.22	450196	1.4145	17.19
440053	1.3264	18.55	440141	0.9927	13.53	440212	1.6187	19.58	450058	1.6127	18.10	450130	1.3541	20.42	450199	1.0979	20.67
440054	1.2247	13.87	440142	1.0095	15.73	440213	1.6187	19.58	450059	1.2342	15.22	450131	1.2707	19.26	450200	1.4511	18.74
440056	1.0523	15.98	440143	1.0189	17.78	440214	1.6187	19.58	450063	0.8753	14.38	450132	1.5776	18.17	450201	1.0867	16.99
440057	1.0725	12.79	440144	1.2827	17.64	440217	1.2242	17.64	450064	1.4407	17.41	450133	1.5532	23.64	450209	1.7113	19.08
440058	1.1468	18.81	440145	0.9764	17.06	450002	1.4964	21.37	450065	0.9949	21.49	450135	1.6714	21.03	450210	1.0423	13.98
440059	1.4739	18.54	440147	1.7064	21.43	450004	1.0878	16.67	450068	1.8951	22.90	450137	1.5658	22.46	450211	1.3949	17.99
440060	1.1254	18.06	440148	1.0650	19.24	450005	1.1999	18.36	450072	1.2200	19.01	450140	0.9325	20.23	450213	1.7786	17.76
440061	1.1140	14.97	440149	1.0299	16.69	450007	1.2312	16.97	450073	1.1328	17.10	450143	1.0367	14.53	450214	1.3116	19.05
440063	1.6376	19.32	440150	1.3182	20.14	450008	1.2218	17.08	450076	1.7674	17.08	450144	1.0746	18.11	450217	0.9365	12.85
440064	1.1054	17.76	440151	1.1397	17.42	450010	1.4699	16.50	450078	0.9224	11.73	450145	0.8608	15.61	450219	0.9728	15.40
440065	1.3167	18.58	440152	2.0761	21.03	450011	1.5042	17.19	450079	1.4679	21.05	450146	0.8943	17.86	450221	1.0718	16.37
440067	1.1687	16.28	440153	1.1131	16.78	450014	1.1295	17.95	450080	1.1637	17.46	450147	1.3488	18.94	450224	1.3253	24.90
440068	1.2445	19.47	440156	1.4802	29.56	450015	1.5984	18.99	450081	0.9866	16.34	450148	1.1855	18.67	450229	1.6647	16.45
440070	1.0189	13.70	440157	1.0585	16.93	450016	1.5700	18.45	450082	0.9978	16.16	450149	1.5838	19.75	450231	1.5947	19.16
440071	1.1943	17.02	440159	1.2268	17.72	450018	1.4551	21.48	450083	1.7936	21.36	450150	0.9364	16.37	450234	1.0237	16.19
440072	1.2826	17.60	440161	1.8345	21.80	450020	0.9506	17.84	450085	1.1413	18.36	450151	1.1660	15.29	450235	1.0434	15.23
440073	1.2472	19.17	440162	0.7243	14.76	450021	1.8828	23.08	450087	1.4081	22.03	450152	1.1782	18.01	450236	1.2055	16.67
440078	1.0057	15.08	440166	1.6735	19.67	450023	1.4818	16.08	450090	1.1578	15.09	450153	1.5847	19.44	450237	1.5897	20.79
440081	1.0939	18.36	440168	1.0083	18.65	450024	1.3887	17.35	450092	1.1838	16.83	450154	1.2049	13.87	450238	1.5897	20.79
440082	2.0072	22.28	440173	1.6376	18.64	450025	1.3042	21.32	450094	1.3042	21.32	450155	1.0660	11.58			

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

CASE MIX INDEX	CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE			CASE MIX INDEX			CASE AVG. HOUR. WAGE			CASE MIX INDEX		
	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE	PROV.	INDEX	WAGE
450239	1.0093	17.13	1.982	18.41	450469	1.4654	19.63	450605	1.1715	21.14	450675	1.5244	22.50	450757	0.8813	13.87		
450241	1.0067	12.57	1.158	18.75	450473	1.0004	19.98	450609	0.8760	15.98	450677	1.3370	22.68	450758	1.5789	21.87		
450243	0.9967	11.91	1.1247	17.75	450475	1.1266	16.34	450610	1.5025	18.99	450678	1.4676	23.26	450760	1.1219	17.49		
450246	1.1557	16.55	450355	0.9621	11.95	450484	1.5182	16.81	450614	0.9407	17.99	450683	1.2556	20.91	450761	0.9087	13.62	
450249	1.0096	12.03	450358	2.0636	22.32	450488	1.3168	19.35	450615	1.1099	14.86	450684	1.2346	19.70	450763	1.0783	18.21	
450250	0.9090	10.28	450362	1.0670	15.88	450489	0.9233	9.93	450617	1.3682	20.34	450686	1.6703	16.57	450766	2.0488	22.43	
450253	1.1334	12.24	450369	1.0434	15.22	450497	1.0756	15.09	450620	1.0723	15.84	450688	1.2896	19.63	450769	0.9131	14.59	
450258	0.9566	16.05	450370	1.1661	12.61	450498	0.9646	13.86	450623	1.1407	22.19	450690	1.3023	21.66	450770	1.0388	16.55	
450264	0.9279	13.89	450371	1.1437	24.63	450508	1.4174	18.81	450626	1.0306	18.17	450694	1.1863	17.48	450771	1.8344	22.45	
450269	1.0241	12.36	450372	1.2145	20.09	450514	1.0529	21.32	450628	0.9750	20.56	450696	1.3829	18.84	450774	1.5215	18.00	
450270	1.1022	12.84	450373	1.0167	17.42	450517	0.9600	27.88	450630	1.4779	21.69	450697	1.3829	18.84	450775	1.2816	19.89	
450271	1.2784	16.63	450374	0.9229	13.61	450518	1.4298	19.81	450631	1.7092	20.04	450698	0.9230	14.67	450776	0.9631	15.78	
450272	1.2602	19.93	450378	1.3771	23.58	450523	1.4387	20.08	450633	0.9805	11.76	450700	0.9559	14.64	450777	0.9170	21.07	
450276	1.0243	13.12	450379	1.4171	22.76	450530	1.2465	22.86	450636	1.5937	19.52	450702	1.3930	20.82	450779	1.3164	21.45	
450278	0.9120	14.83	450381	0.9811	16.42	450534	0.9191	19.94	450638	1.7055	23.53	450704	1.1137	20.98	450780	1.6389	19.15	
450280	1.6036	22.30	450388	1.7801	19.25	450535	1.2963	19.66	450638	1.5448	23.14	450705	0.8976	30.01	450785	0.8497	18.50	
450283	1.0644	14.57	450389	1.3002	18.18	450537	1.2819	20.84	450639	1.4546	23.19	450706	1.2011	21.21	450788	1.5908	19.15	
450288	1.1091	16.25	450393	1.1967	20.28	450539	1.1845	16.49	450641	0.9824	16.51	450709	1.2377	20.89	450794	1.5079	18.22	
450289	1.4195	20.31	450395	0.9810	18.38	450544	1.0994	23.93	450643	1.2487	18.71	450711	1.6707	19.81	450795	0.9453	16.65	
450292	1.2167	16.97	450399	0.8667	15.78	450545	1.1753	19.56	450644	1.5281	23.66	450712	0.5334	13.62	450796	1.5079	16.94	
450293	0.9098	16.01	450400	1.3200	19.54	450547	1.0055	14.82	450646	1.4060	19.83	450713	1.4839	20.81	450798	0.9957	9.46	
450296	1.1790	21.60	450403	1.2172	20.20	450551	1.0711	16.94	450647	1.8165	24.80	450715	1.3785	22.04	450799	1.4415	17.57	
450299	1.4776	21.57	450411	0.9201	14.48	450558	1.8452	22.26	450648	1.0150	14.85	450716	1.2400	20.55	450801	1.4005	19.92	
450303	0.8524	12.46	450417	0.9596	13.50	450563	1.2798	19.92	450649	0.9511	16.45	450717	1.2506	20.72	450802	1.1873	18.38	
450306	1.0552	13.82	450418	1.4637	21.92	450565	1.2365	16.26	450651	1.6805	22.77	450718	1.1925	19.69	450803	1.6169	19.48	
450307	0.6915	16.46	450419	1.1974	20.63	450570	1.1060	18.95	450652	1.3948	19.76	450723	1.3948	19.76	450804	1.0904	11.32	
450309	1.0330	13.15	450422	1.0383	26.48	450571	1.5421	17.56	450653	1.1009	18.18	450724	1.2374	20.32	450806	1.9776	16.99	
450315	0.9189	22.81	450423	1.2348	22.71	450573	1.0077	12.25	450654	0.9539	14.53	450727	1.0614	13.55	450807	0.7878	20.02	
450320	1.2144	20.09	450424	1.4637	21.92	450574	0.9175	14.60	450656	1.3430	17.67	450728	0.8811	17.53	450808	1.9776	16.99	
450321	0.8878	13.18	450429	1.0777	13.87	450575	1.0415	19.39	450658	1.0274	16.26	450730	1.2146	22.08	450809	1.5552	20.02	
450322	0.6218	22.77	450431	1.5198	19.63	450578	0.9355	15.48	450659	1.5200	22.26	450733	1.4104	20.77	450810	0.8196	19.10	
450324	1.4633	17.79	450438	1.1740	19.50	450580	1.1966	15.83	450661	1.1560	19.72	450735	1.388	13.88	450811	2.3384	15.92	
450327	0.9713	11.75	450446	0.7066	13.10	450583	1.0269	15.66	450662	1.4612	18.23	450742	1.2948	22.76	450813	0.9751	15.92	
450330	1.1594	18.94	450447	1.3503	18.04	450584	1.0583	14.23	450665	0.8554	15.20	450743	1.5068	18.89	450817	0.7497	11.32	
450334	0.9096	12.81	450451	1.1706	18.89	450586	1.0112	14.38	450666	1.2980	20.32	450746	0.9213	12.79	450818	1.1935	11.32	
450337	1.0099	17.11	450457	1.8445	24.79	450587	1.1747	17.02	450668	1.6420	20.70	450747	1.2546	19.26	450819	1.5223	11.32	
450340	1.3999	17.69	450460	1.0043	15.18	450591	1.1238	17.90	450669	1.2887	21.76	450749	1.3633	16.21	450820	1.0157	11.32	
450341	1.0090	18.94	450462	1.7613	22.62	450596	1.2387	22.54	450670	1.3668	16.89	450750	1.0004	14.69	450822	1.3260	11.32	
450346	1.3176	17.54	450464	0.8963	13.29	450597	0.9205	17.08	450672	1.6518	21.85	450751	1.2125	21.22	450823	0.8952	11.32	
450347	1.2264	17.11	450465	1.2023	15.57	450603	0.6767	11.64	450673	0.9904	13.96	450754	0.9948	16.09	450824	2.1437	11.32	
450348	1.0839	13.95	450467	1.0072	10.62	450604	1.3055	16.45	450674	1.0414	22.28	450755	1.0462	17.99	450825	1.7453	11.32	

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999 HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE		PROV.	CASE AVG. HOUR. WAGE	
	MIX INDEX	AVG. HOUR. WAGE		MIX INDEX	AVG. HOUR. WAGE		MIX INDEX	AVG. HOUR. WAGE		MIX INDEX	AVG. HOUR. WAGE		MIX INDEX	AVG. HOUR. WAGE
450827	1.3665	19.48	460051	1.1513	19.48	490032	1.6993	22.43	490100	1.2097	22.50	500024	1.7078	23.75
450828	1.1367	21.17	460052	1.2190	21.17	490033	1.1609	21.17	490101	1.2097	24.76	500025	1.8526	26.48
460001	1.7774	21.80	470001	1.3216	20.23	490037	1.2489	16.38	490104	0.7590	25.69	500026	1.4310	23.80
460003	1.5123	20.05	470003	1.8887	23.69	490038	1.1722	21.02	490105	0.6195	18.58	500027	1.6207	22.22
460004	1.7367	21.37	470004	1.0878	16.88	490040	1.4247	22.71	490106	0.8205	17.66	500028	1.0295	19.27
460005	1.5705	19.71	470005	1.2279	21.92	490041	1.3266	18.36	490107	1.3750	23.52	500029	0.9294	17.92
460006	1.2699	20.63	470006	1.2142	17.87	490042	1.2593	16.47	490108	0.9199	20.21	500030	1.4388	24.90
460007	1.3638	20.80	470008	1.2017	19.61	490043	1.3050	22.16	490109	0.8819	23.66	500031	1.2628	29.27
460008	1.3326	18.87	470010	1.1124	20.30	490044	1.3719	18.31	490110	1.3349	16.51	500033	1.3605	22.35
460009	1.8610	21.90	470011	1.1746	21.77	490045	1.2390	20.35	490111	1.1784	17.18	500036	1.3717	22.11
460010	2.0346	21.98	470012	1.2339	18.53	490046	1.5433	18.48	490112	1.6377	21.45	500037	1.1283	20.71
460011	1.4191	18.87	470015	1.2624	19.54	490047	1.0565	25.04	490113	1.2776	23.22	500039	1.4020	23.89
460013	1.3869	20.73	470018	1.2090	21.54	490048	1.4978	18.44	490114	1.0703	17.30	500041	1.2884	23.96
460014	1.1723	18.39	470020	0.9228	20.66	490050	1.4045	23.07	490115	1.1805	16.52	500042	0.9753	20.94
460015	1.2674	20.66	470023	1.3152	20.45	490052	1.6336	16.86	490116	1.1824	16.62	500043	0.9753	20.94
460016	1.0741	18.24	470024	1.1449	20.85	490053	1.2440	15.70	490117	1.1668	14.01	500044	1.9949	23.34
460017	1.3719	17.71	490001	1.1864	21.98	490054	1.0637	15.47	490118	1.7171	21.47	500045	1.0498	20.89
460018	0.9125	17.62	490002	1.4950	15.23	490057	1.6642	19.92	490119	1.4783	17.91	500048	0.9204	22.19
460019	1.0411	16.27	490003	0.6857	19.10	490059	1.5958	20.87	490120	1.3381	19.37	500049	1.4107	24.05
460020	0.9089	17.35	490004	1.2564	19.21	490060	1.0611	17.63	490122	1.3987	23.88	500050	1.3888	22.01
460021	1.4513	21.05	490005	1.6131	20.55	490063	1.7456	28.65	490123	1.1396	17.75	500051	1.7215	24.82
460022	0.9538	20.15	490006	1.1790	15.95	490066	1.2761	20.70	490124	1.0765	22.09	500052	1.3600	22.43
460023	1.2892	22.35	490007	2.1450	18.77	490067	1.2436	17.02	490126	1.3091	18.68	500053	1.3084	23.94
460025	0.7321	19.42	490009	1.8363	23.93	490069	1.4462	17.33	490127	1.0282	16.05	500054	1.9626	22.88
460027	0.9043	21.89	490010	1.4281	18.61	490073	1.4347	20.80	490130	1.2500	16.43	500057	1.2646	18.27
460029	1.0288	20.51	490012	1.2111	16.00	490075	1.4951	18.70	490132	1.1018	18.66	500058	1.4537	24.79
460030	1.1870	17.61	490013	1.2821	17.33	490077	1.2581	21.37	500001	1.5628	22.19	500059	1.0952	23.35
460032	0.9642	21.10	490014	1.7731	25.83	490079	1.3013	17.08	500002	1.4656	21.63	500060	1.4506	25.02
460033	1.0207	19.54	490015	1.4508	19.64	490084	1.1478	16.78	500003	1.4101	24.28	500061	0.9435	21.70
460035	0.9156	16.00	490017	1.3974	18.44	490085	1.1531	17.46	500005	1.8166	22.40	500062	1.0804	18.63
460036	0.9355	23.59	490018	1.2388	18.34	490088	1.1448	16.44	500007	1.3742	26.06	500064	1.5961	25.57
460037	0.9602	18.69	490019	1.1702	19.62	490089	1.0649	17.77	500008	1.8318	25.31	500065	1.2610	21.93
460039	1.0285	24.91	490020	1.2437	18.57	490090	1.1180	17.02	500011	1.3619	24.02	500068	1.0026	19.66
460041	1.2929	21.06	490021	1.4210	19.39	490091	1.2429	20.87	500012	1.5691	20.70	500069	1.0859	21.36
460042	1.3924	18.88	490022	1.5416	21.22	490092	1.1989	16.95	500014	1.5460	24.34	500071	1.2763	19.19
460043	1.0320	24.48	490023	1.1951	20.67	490093	1.4163	17.37	500015	1.3379	23.93	500072	1.1969	25.39
460044	1.1798	21.47	490024	1.6667	17.72	490094	1.0399	18.92	500016	1.5184	24.39	500073	0.9725	21.25
460046	1.2282	18.22	490027	1.1280	16.28	490097	1.2102	15.58	500019	1.4036	22.42	500074	1.0870	18.97
460047	1.6283	23.04	490030	1.1280	9.18	490098	1.1619	15.14	500021	1.4661	22.52	500077	1.2909	22.85
460049	2.0317	19.65	490031	1.0741	14.95	490099	0.9133	17.97	500023	1.1537	26.65	500079	1.2814	24.20

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999 HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX		PROV.	CASE AVG. HOUR. WAGE		CASE MIX INDEX	
	INDEX	WAGE	INDEX	WAGE		INDEX	WAGE	INDEX	WAGE		INDEX	WAGE	INDEX	WAGE		INDEX	WAGE	INDEX	WAGE
510013	1.0607	17.85	510085	1.2868	17.56	520048	1.4700	20.66	520109	1.0398	19.13	520173	1.1319	21.30					
510015	0.9345	14.90	510086	1.0521	13.48	520049	2.1090	20.35	520110	1.2264	20.45	520177	1.6413	22.72					
510018	1.0915	18.53	510088	1.0379		520051	1.7870	21.85	520111	0.9801	17.78	520178	1.0542	18.69					
510020	1.0381	13.18	520002	1.2428	19.74	520053	1.1608	17.39	520112	1.1339	19.18	520188	2.3936	13.91					
510022	1.8947	20.18	520003	1.1499	17.12	520054	1.0320	15.17	520113	1.3075	21.15	520189	1.0938						
510024	1.9615	19.09	520004	1.2152	19.65	520057	1.1289	19.09	520114	1.0869	16.66	520190	1.2809						
510026	1.0622	13.69	520006	1.0018	21.53	520058	1.1253	19.73	520115	1.2016	18.30	530002	1.1396	19.33					
510027	0.9786	17.29	520007	1.0591	16.20	520059	1.3209	20.99	520116	1.1292	19.85	530003	0.8619	16.21					
510028	1.0350	20.06	520008	1.6082	22.80	520060	1.4832	17.92	520117	1.0163	18.54	530004	0.9954	15.05					
510029	1.2672	17.71	520010	1.1000	22.77	520062	1.2308	19.15	520118	0.8954	14.23	530005	1.1870	13.35					
510030	1.0300	17.42	520011	1.1658	20.74	520063	1.1826	19.61	520120		18.74	530006	1.1200	18.59					
510031	1.4190	28.67	520013	1.3414	20.40	520064	1.5634	22.74	520121	0.9766	19.73	530007	0.9956	18.52					
510033	1.2900	18.41	520014	1.1236	17.16	520066	1.4380	22.88	520122	0.9672	16.24	530008	1.1835	18.83					
510035	1.1863	16.50	520015	1.1640	18.61	520068	0.9318	18.99	520123	1.0247	17.40	530009	0.9536	22.50					
510036	0.9419	13.46	520016	1.1835	17.30	520069	1.1932	20.29	520124	1.0367	17.26	530010	1.2254	21.61					
510038	1.0707	15.81	520017	1.1203	19.60	520070	1.5321	18.59	520130	1.0819	15.68	530011	1.1587	18.74					
510039	1.4141	16.94	520018	1.0717	21.19	520071	1.2017	18.73	520131	0.9922	18.73	530012	1.6508	18.99					
510043	0.8997	14.07	520019	1.1934	19.54	520074	1.0139	20.46	520132	1.1767	15.64	530014	1.4471	18.09					
510046	1.2018	17.38	520021	1.4879	21.35	520075	1.4673	19.85	520134	1.1351	18.10	530015	1.2324	22.46					
510048	1.1368	21.04	520024	1.0939	14.02	520076	1.1491	17.61	520135	0.8967	15.82	530016	1.2625	18.16					
510049	1.6111	19.90	520025	1.0617	18.24	520077	0.9328	17.78	520136	1.4611	19.85*	530017	0.9021	16.35					
510050	1.7223	16.91	520026	1.1098	21.55	520078	1.5814	21.34	520138	1.8050	21.23	530018	1.2119	18.38					
510053	1.0161	16.10	520027	1.2697	19.93	520082		17.74	520139	1.2575	21.00	530019	0.9196	18.54					
510055	1.2896	23.72	520028	1.2932	21.28	520083	1.6487	23.88	520140	1.6422	21.52	530022	0.8642	20.19					
510058	1.2914	18.42	520029	0.9183	19.58	520084	1.0971	20.34	520142	0.8522	20.58	530023	0.8642	20.19					
510059	2.2171	16.58	520030	1.6824	20.50	520087	1.6926	20.36	520144	1.0475	18.57	530025	1.4896	21.26					
510060		17.56	520031	1.0527	20.48	520088	1.2649	20.63	520145	0.9006	18.26	530026	0.9932	17.01					
510061	1.0308	13.82	520032	1.2210	19.57	520089	1.4630	21.35	520146	1.0508	17.96	530027	0.8873	18.17					
510062	1.1709	19.39	520033	1.1933	19.30	520090	1.3799	18.93	520148	1.1128	17.24	530029	0.9181	16.51					
510066		12.29	520034	1.1886	17.13	520091	1.3147	20.99	520149	0.9111	14.19	530031	0.7881	18.33					
510067	1.1077	16.72	520035	1.2906	18.94	520092	1.1112	17.65	520151	1.0428	17.33	530032	1.0391	21.04					
510068	1.2062	18.79	520037	1.6611	20.67	520094	0.7710	20.36	520152	1.0997	19.58								
510070	1.3015	18.51	520038	1.2795	19.63	520095	1.2738	20.33	520153	0.9397	15.98								
510071	1.3221	17.21	520039	0.9857	20.76	520096	1.4176	19.78	520154	1.1336	18.54								
510072	1.0308	15.63	520040	1.5732	20.47	520097	1.2967	20.24	520156	1.1393	21.34								
510077	1.1060	18.07	520041	1.1839	17.19	520098	1.8155	22.33	520157	1.0554	17.20								
510080	1.0889	17.45	520042	1.0920	18.58	520101	1.1341	19.52	520159	0.9103	18.68								
510081	1.1326	13.64	520044	1.4397	18.40	520102	1.1669	20.19	520160	1.7776	19.42								
510082	1.1535	17.45	520045	1.6806	20.59	520103	1.3020	19.48	520170	1.0966	19.49								
510084	0.9774	17.24	520047	0.9645	18.30	520107	1.2263	20.37	520171	0.9407	17.46								

ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS

Urban area (constituent counties)	Wage index	GAF
0040 Abilene, TX	0.8240	0.8758
Taylor, TX		
0060 Aguadilla, PR	0.4391	0.5692
Aguada, PR		
Aguadilla, PR		
Moca, PR		
0080 Akron, OH	0.9736	0.9818
Portage, OH		
Summit, OH		
0120 Albany, GA	0.9933	0.9954
Dougherty, GA		
Lee, GA		
0160 Albany-Schenectady-Troy, NY	0.8549	0.8982
Albany, NY		
Montgomery, NY		
Rensselaer, NY		
Saratoga, NY		
Schenectady, NY		
Schoharie, NY		
0200 Albuquerque, NM	0.9136	0.9400
Bernalillo, NM		
Sandoval, NM		
Valencia, NM		
0220 Alexandria, LA ...	0.8170	0.8707
Rapides, LA		
0240 Allentown-Bethlehem-Easton, PA	1.0040	1.0027
Carbon, PA		
Lehigh, PA		
Northampton, PA		
0280 Altoona, PA	0.9346	0.9547
Blair, PA		
0320 Amarillo, TX	0.8715	0.9101
Potter, TX		
Randall, TX		
0380 Anchorage, AK ..	1.2865	1.1883
Anchorage, AK		
0440 Ann Arbor, MI	1.1254	1.0843
Lenawee, MI		
Livingston, MI		
Washtenaw, MI		
0450 Anniston, AL	0.8284	0.8790
Calhoun, AL		
0460 Appleton-Oshkosh-Neenah, WI	0.9052	0.9341
Calumet, WI		
Outagamie, WI		
Winnebago, WI		
0470 Arecibo, PR	0.4525	0.5810
Arecibo, PR		
Camuy, PR		
Hatillo, PR		
0480 Asheville, NC	0.9516	0.9666
Buncombe, NC		
Madison, NC		
0500 Athens, GA	0.9739	0.9821
Clarke, GA		
Madison, GA		
Oconee, GA		
0520 ¹ Atlanta, GA	1.0096	1.0066
Barrow, GA		
Bartow, GA		
Carroll, GA		
Cherokee, GA		
Clayton, GA		
Cobb, GA		
Coweta, GA		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
DeKalb, GA		
Douglas, GA		
Fayette, GA		
Forsyth, GA		
Fulton, GA		
Gwinnett, GA		
Henry, GA		
Newton, GA		
Paulding, GA		
Pickens, GA		
Rockdale, GA		
Spalding, GA		
Walton, GA		
0560 Atlantic-Cape May, NJ	1.1182	1.0795
Atlantic, NJ		
Cape May, NJ		
0580 Auburn-Opelika, AL	0.8106	0.8661
Lee, AL		
0600 Augusta-Aiken, GA-SC	0.9160	0.9417
Columbia, GA		
McDuffie, GA		
Richmond, GA		
Aiken, SC		
0640 ¹ Austin-San Marcos, TX	0.9577	0.9708
Bastrop, TX		
Caldwell, TX		
Hays, TX		
Travis, TX		
Williamson, TX		
0680 ² Bakersfield, CA	0.9861	0.9905
Kern, CA		
0720 ¹ Baltimore, MD	0.9365	0.9561
Anne Arundel, MD		
Baltimore, MD		
Baltimore City, MD		
Carroll, MD		
Harford, MD		
Howard, MD		
Queen Anne's, MD		
0733 Bangor, ME	0.9561	0.9697
Penobscot, ME		
0743 Barnstable-Yarmouth, MA	1.3839	1.2492
Barnstable, MA		
0760 Baton Rouge, LA	0.8842	0.9192
Ascension, LA		
East Baton Rouge, LA		
Livingston, LA		
West Baton Rouge, LA		
0840 Beaumont-Port Arthur, TX	0.8744	0.9122
Hardin, TX		
Jefferson, TX		
Orange, TX		
0860 Bellingham, WA	1.1439	1.0964
Whatcom, WA		
0870 ² Benton Harbor, MI	0.9021	0.9319
Berrien, MI		
0875 ¹ Bergen-Passaic, NJ	1.1605	1.1073

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Bergen, NJ		
Passaic, NJ		
0880 Billings, MT	0.9591	0.9718
Yellowstone, MT		
0920 Biloxi-Gulfport-Pascagoula, MS	0.8236	0.8756
Hancock, MS		
Harrison, MS		
Jackson, MS		
0960 Binghamton, NY	0.8690	0.9083
Broome, NY		
Tioga, NY		
1000 Birmingham, AL	0.8477	0.8930
Blount, AL		
Jefferson, AL		
St. Clair, AL		
Shelby, AL		
1010 Bismarck, ND	0.7897	0.8507
Burleigh, ND		
Morton, ND		
1020 Bloomington, IN	0.8733	0.9114
Monroe, IN		
1040 Bloomington-Normal, IL	0.9156	0.9414
McLean, IL		
1080 Boise City, ID	0.9042	0.9334
Ada, ID		
Canyon, ID		
1123 ¹² Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH (MA Hospitals)	1.1204	1.0810
Bristol, MA		
Essex, MA		
Middlesex, MA		
Norfolk, MA		
Plymouth, MA		
Suffolk, MA		
Worcester, MA		
Hillsborough, NH		
Merrimack, NH		
Rockingham, NH		
Strafford, NH		
1123 ¹ Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH (NH Hospitals)	1.1160	1.0781
Bristol, MA		
Essex, MA		
Middlesex, MA		
Norfolk, MA		
Plymouth, MA		
Suffolk, MA		
Worcester, MA		
Hillsborough, NH		
Merrimack, NH		
Rockingham, NH		
Strafford, NH		
1125 Boulder-Longmont, CO	0.9731	0.9815
Boulder, CO		
1145 Brazoria, TX	0.8658	0.9060
Brazoria, TX		
1150 Bremerton, WA	1.0975	1.0658
Kitsap, WA		
1240 Brownsville-Harlingen-San Benito, TX	0.8722	0.9106

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Cameron, TX 1260 Bryan-College Station, TX	0.8237	0.8756
Brazos, TX 1280 ¹ Buffalo-Niagara Falls, NY	0.9580	0.9710
Erie, NY Niagara, NY 1303 Burlington, VT ...	1.0735	1.0498
Chittenden, VT Franklin, VT Grand Isle, VT		
1310 Caguas, PR	0.4562	0.5842
Caguas, PR Cayey, PR Cidra, PR Gurabo, PR San Lorenzo, PR		
1320 ² Canton-Massillon, OH	0.8670	0.9069
Carroll, OH Stark, OH		
1350 ² Casper, WY	0.8817	0.9174
Natrona, WY		
1360 Cedar Rapids, IA	0.8736	0.9116
Linn, IA		
1400 Champaign-Urbana, IL	0.9198	0.9444
Champaign, IL		
1440 Charleston-North Charleston, SC	0.9067	0.9351
Berkeley, SC Charleston, SC Dorchester, SC		
1480 Charleston, WV	0.9240	0.9473
Kanawha, WV Putnam, WV		
1520 ¹ Charlotte-Gastonia-Rock Hill, NC—SC	0.9391	0.9579
Cabarrus, NC Gaston, NC Lincoln, NC Mecklenburg, NC Rowan, NC Stanly, NC Union, NC York, SC		
1540 Charlottesville, VA	1.0789	1.0534
Albemarle, VA Charlottesville City, VA Fluvanna, VA Greene, VA		
1560 Chattanooga, TN—GA	0.9833	0.9885
Catoosa, GA Dade, GA Walker, GA Hamilton, TN Marion, TN		
1580 ² Cheyenne, WY	0.8817	0.9174
Laramie, WY		
1600 ¹ Chicago, IL	1.1146	1.0771
Cook, IL DeKalb, IL		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
DuPage, IL Grundy, IL Kane, IL Kendall, IL Lake, IL McHenry, IL Will, IL		
1620 Chico-Paradise, CA	0.9918	0.9944
Butte, CA		
1640 ¹ Cincinnati, OH—KY—IN	0.9415	0.9596
Dearborn, IN Ohio, IN Boone, KY Campbell, KY Gallatin, KY Grant, KY Kenton, KY Pendleton, KY Brown, OH Clermont, OH Hamilton, OH Warren, OH		
1660 Clarksville-Hopkinsville, TN—KY	0.8277	0.8785
Christian, KY Montgomery, TN		
1680 ¹ Cleveland-Lorain-Elyria, OH	0.9593	0.9719
Ashtabula, OH Cuyahoga, OH Geauga, OH Lake, OH Lorain, OH Medina, OH		
1720 Colorado Springs, CO	0.9697	0.9792
El Paso, CO		
1740 Columbia, MO ...	0.8961	0.9276
Boone, MO		
1760 Columbia, SC	0.9554	0.9692
Lexington, SC Richland, SC		
1800 Columbus, GA—AL	0.8568	0.8996
Russell, AL Chattahoochee, GA Harris, GA Muscogee, GA		
1840 ¹ Columbus, OH	0.9619	0.9737
Delaware, OH Fairfield, OH Franklin, OH Licking, OH Madison, OH Pickaway, OH		
1880 Corpus Christi, TX	0.8726	0.9109
Nueces, TX San Patricio, TX		
1890 Corvallis, OR	1.1326	1.0890
Benton, OR		
1900 ² Cumberland, MD—WV (MD Hospitals)	0.8651	0.9055
Allegany, MD		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Mineral, WV 1900 Cumberland, MD—WV (WV Hospital)	0.8369	0.8852
Allegany, MD Mineral, WV		
1920 ¹ Dallas, TX	0.9913	0.9940
Collin, TX Dallas, TX Denton, TX Ellis, TX Henderson, TX Hunt, TX Kaufman, TX Rockwall, TX		
1950 Danville, VA	0.8589	0.9011
Danville City, VA Pittsylvania, VA		
1960 Davenport-Moline-Rock Island, IA—IL	0.8898	0.9232
Scott, IA Henry, IL Rock Island, IL		
2000 Dayton-Springfield, OH	0.9442	0.9614
Clark, OH Greene, OH Miami, OH Montgomery, OH		
2020 Daytona Beach, FL	0.9147	0.9408
Flagler, FL Volusia, FL		
2030 Decatur, AL	0.8534	0.8971
Lawrence, AL Morgan, AL		
2040 ² Decatur, IL	0.8160	0.8700
Macon, IL		
2080 ¹ Denver, CO	1.0181	1.0124
Adams, CO Arapahoe, CO Denver, CO Douglas, CO Jefferson, CO		
2120 Des Moines, IA	0.9118	0.9387
Dallas, IA Polk, IA Warren, IA		
2160 ¹ Detroit, MI	1.0510	1.0347
Lapeer, MI Macomb, MI Monroe, MI Oakland, MI St. Clair, MI Wayne, MI		
2180 Dothan, AL	0.8013	0.8592
Dale, AL Houston, AL		
2190 Dover, DE	1.0078	1.0053
Kent, DE		
2200 Dubuque, IA	0.8746	0.9123
Dubuque, IA		
2240 Duluth-Superior, MN—WI	1.0043	1.0029

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
St. Louis, MN		
Douglas, WI		
2281 Dutchess County, NY	0.9491	0.9649
Dutchess, NY		
2290 ² Eau Claire, WI	0.8880	0.9219
Chippewa, WI		
Eau Claire, WI		
2320 El Paso, TX	0.9346	0.9547
El Paso, TX		
2330 Elkhart-Goshen, IN	0.9145	0.9406
Elkhart, IN		
2335 Elmira, NY	0.8546	0.8980
Chemung, NY		
2340 Enid, OK	0.8610	0.9026
Garfield, OK		
2360 Erie, PA	0.8985	0.9293
Erie, PA		
2400 Eugene-Springfield, OR	1.0965	1.0651
Lane, OR		
2440 ² Evansville-Henderson, IN—KY (IN Hospitals)	0.8602	0.9020
Posey, IN		
Vanderburgh, IN		
Warrick, IN		
Henderson, KY		
2440 Evansville-Henderson, IN—KY (KY Hospitals)	0.8173	0.8710
Posey, IN		
Vanderburgh, IN		
Warrick, IN		
Henderson, KY		
2520 Fargo-Moorhead, ND—MN	0.8749	0.9125
Clay, MN		
Cass, ND		
2560 Fayetteville, NC	0.8655	0.9058
Cumberland, NC		
2580 Fayetteville-Springdale-Rogers, AR	0.7910	0.8517
Benton, AR		
Washington, AR		
2620 Flagstaff, AZ—UT	1.0686	1.0465
Coconino, AZ		
Kane, UT		
2640 Flint, MI	1.1205	1.0810
Genesee, MI		
2650 Florence, AL	0.7652	0.8325
Colbert, AL		
Lauderdale, AL		
2655 Florence, SC	0.8777	0.9145
Florence, SC		
2670 Fort Collins-Loveland, CO	1.0647	1.0439
Larimer, CO		
2680 ¹ Ft. Lauderdale, FL	1.0152	1.0104
Broward, FL		
2700 Fort Myers-Cape Coral, FL	0.9247	0.9478
Lee, FL		
2710 Fort Pierce-Port St. Lucie, FL	0.9622	0.9740

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Martin, FL		
St. Lucie, FL		
2720 Fort Smith, AR—OK	0.8052	0.8621
Crawford, AR		
Sebastian, AR		
Sequoyah, OK		
2750 Fort Walton Beach, FL	0.9607	0.9729
Okaloosa, FL		
2760 Fort Wayne, IN ..	0.8665	0.9065
Adams, IN		
Allen, IN		
De Kalb, IN		
Huntington, IN		
Wells, IN		
Whitley, IN		
2800 ¹ Forth Worth-Arlington, TX	0.9527	0.9674
Hood, TX		
Johnson, TX		
Parker, TX		
Tarrant, TX		
2840 Fresno, CA	1.0104	1.0071
Fresno, CA		
Madera, CA		
2880 Gadsden, AL	0.8423	0.8891
Etowah, AL		
2900 Gainesville, FL ..	1.0074	1.0051
Alachua, FL		
2920 Galveston-Texas City, TX	0.9918	0.9944
Galveston, TX		
2960 Gary, IN	0.9454	0.9623
Lake, IN		
Porter, IN		
2975 ² Glens Falls, NY	0.8499	0.8946
Warren, NY		
Washington, NY		
2980 ² Goldensboro, NC	0.8441	0.8904
Wayne, NC		
2985 Grand Forks, ND—MN	0.8954	0.9271
Polk, MN		
Grand Forks, ND		
2995 Grand Junction, CO	0.9471	0.9635
Mesa, CO		
3000 ¹ Grand Rapids-Muskegon-Holland, MI	1.0248	1.0169
Allegan, MI		
Kent, MI		
Muskegon, MI		
Ottawa, MI		
3040 Great Falls, MT	0.9331	0.9537
Cascade, MT		
3060 Greeley, CO	0.9814	0.9872
Weld, CO		
3080 Green Bay, WI ..	0.9308	0.9521
Brown, WI		
3120 ¹ Greensboro-Winston-Salem-High Point, NC	0.9124	0.9391
Alamance, NC		
Davidson, NC		
Davie, NC		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Forsyth, NC		
Guilford, NC		
Randolph, NC		
Stokes, NC		
Yadkin, NC		
3150 Greenville, NC ...	0.9384	0.9574
Pitt, NC		
3160 Greenville-Spartanburg-Anderson, SC	0.9003	0.9306
Anderson, SC		
Cherokee, SC		
Greenville, SC		
Pickens, SC		
Spartanburg, SC		
3180 Hagerstown, MD	0.9409	0.9591
Washington, MD		
3200 Hamilton-Middletown, OH	0.9061	0.9347
Butler, OH		
3240 Harrisburg-Lebanon-Carlisle, PA	0.9386	0.9575
Cumberland, PA		
Dauphin, PA		
Lebanon, PA		
Perry, PA		
3283 ^{1,2} Hartford, CT ..	1.1715	1.1145
Hartford, CT		
Litchfield, CT		
Middlesex, CT		
Tolland, CT		
3285 ² Hattiesburg, MS	0.7491	0.8205
Forrest, MS		
Lamar, MS		
3290 Hickory-Morganton-Lenoir, NC	0.8755	0.9130
Alexander, NC		
Burke, NC		
Caldwell, NC		
Catawba, NC		
3320 Honolulu, HI	1.1866	1.1243
Honolulu, HI		
3350 Houma, LA	0.8086	0.8646
Lafourche, LA		
Terrebonne, LA		
3360 ¹ Houston, TX	0.9732	0.9816
Chambers, TX		
Fort Bend, TX		
Harris, TX		
Liberty, TX		
Montgomery, TX		
Waller, TX		
3400 Huntington-Ashland, WV—KY—OH	0.9876	0.9915
Boyd, KY		
Carter, KY		
Greenup, KY		
Lawrence, OH		
Cabell, WV		
Wayne, WV		
3440 Huntsville, AL	0.8932	0.9256
Limestone, AL		
Madison, AL		
3480 ¹ Indianapolis, IN	0.9787	0.9854
Boone, IN		
Hamilton, IN		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Hancock, IN		
Hendricks, IN		
Johnson, IN		
Madison, IN		
Marion, IN		
Morgan, IN		
Shelby, IN		
3500 Iowa City, IA	0.9657	0.9764
Johnson, IA		
3520 Jackson, MI	0.9134	0.9399
Jackson, MI		
3560 Jackson, MS	0.8812	0.9170
Hinds, MS		
Madison, MS		
Rankin, MS		
3580 Jackson, TN	0.8796	0.9159
Madison, TN		
Chester, TN		
3600 ¹ Jacksonville, FL	0.9208	0.9451
Clay, FL		
Duval, FL		
Nassau, FL		
St. Johns, FL		
3605 ² Jacksonville, NC	0.8441	0.8904
Onslow, NC		
3610 ² Jamestown, NY	0.8499	0.8946
Chautauqua, NY		
3620 Janesville-Beloit, WI	0.9585	0.9714
Rock, WI		
3640 Jersey City, NJ ..	1.1573	1.1052
Hudson, NJ		
3660 Johnson City-Kingsport-Bristol, TN-VA	0.8328	0.8822
Carter, TN		
Hawkins, TN		
Sullivan, TN		
Unicoi, TN		
Washington, TN		
Bristol City, VA		
Scott, VA		
Washington, VA		
3680 Johnstown, PA ..	0.8578	0.9003
Cambria, PA		
Somerset, PA		
3700 Jonesboro, AR ..	0.7832	0.8459
Craighead, AR		
3710 Joplin, MO	0.8148	0.8691
Jasper, MO		
Newton, MO		
3720 Kalamazoo-Battlecreek, MI	1.0453	1.0308
Calhoun, MI		
Kalamazoo, MI		
Van Buren, MI		
3740 Kankakee, IL	0.9902	0.9933
Kankakee, IL		
3760 ¹ Kansas City, KS-MO	0.9498	0.9653
Johnson, KS		
Leavenworth, KS		
Miami, KS		
Wyandotte, KS		
Cass, MO		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Clay, MO		
Clinton, MO		
Jackson, MO		
Lafayette, MO		
Platte, MO		
Ray, MO		
3800 Kenosha, WI	0.9611	0.9732
Kenosha, WI		
3810 Killeen-Temple, TX	1.0119	1.0081
Bell, TX		
Coryell, TX		
3840 Knoxville, TN	0.8340	0.8831
Anderson, TN		
Blount, TN		
Knox, TN		
Loudon, TN		
Sevier, TN		
Union, TN		
3850 Kokomo, IN	0.9525	0.9672
Howard, IN		
Tipton, IN		
3870 La Crosse, WI-MN	0.9211	0.9453
Houston, MN		
La Crosse, WI		
3880 Lafayette, LA	0.8490	0.8940
Acadia, LA		
Lafayette, LA		
St. Landry, LA		
St. Martin, LA		
3920 Lafayette, IN	0.8834	0.9186
Clinton, IN		
Tippecanoe, IN		
3960 ² Lake Charles, LA	0.7713	0.8371
Calcasieu, LA		
3980 Lakeland-Winter Haven, FL	0.8928	0.9253
Polk, FL		
4000 Lancaster, PA ...	0.9259	0.9486
Lancaster, PA		
4040 Lansing-East Lansing, MI	0.9934	0.9955
Clinton, MI		
Eaton, MI		
Ingham, MI		
4080 Laredo, TX	0.8168	0.8706
Webb, TX		
4100 Las Cruces, NM	0.8658	0.9060
Dona Ana, NM		
4120 ¹ Las Vegas, NV-AZ	1.0796	1.0538
Mohave, AZ		
Clark, NV		
Nye, NV		
4150 Lawrence, KS	0.8190	0.8722
Douglas, KS		
4200 Lawton, OK	0.8996	0.9301
Comanche, OK		
4243 Lewiston-Auburn, ME	0.9036	0.9329
Androskoggin, ME		
4280 Lexington, KY	0.8866	0.9209
Bourbon, KY		
Clark, KY		
Fayette, KY		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Jessamine, KY		
Madison, KY		
Scott, KY		
Woodford, KY		
4320 Lima, OH	0.9320	0.9529
Allen, OH		
Auglaize, OH		
4360 Lincoln, NE	0.9666	0.9770
Lancaster, NE		
4400 Little Rock-North Little Rock, AR	0.8906	0.9237
Faulkner, AR		
Lonoke, AR		
Pulaski, AR		
Saline, AR		
4420 Longview-Marshall, TX	0.8922	0.9249
Gregg, TX		
Harrison, TX		
Upshur, TX		
4480 ¹ Los Angeles-Long Beach, CA	1.2033	1.1351
Los Angeles, CA		
4520 Louisville, KY-IN	0.9350	0.9550
Clark, IN		
Floyd, IN		
Harrison, IN		
Scott, IN		
Bullitt, KY		
Jefferson, KY		
Oldham, KY		
4600 Lubbock, TX	0.8838	0.9189
Lubbock, TX		
4640 Lynchburg, VA ..	0.8867	0.9210
Amherst, VA		
Bedford, VA		
Bedford City, VA		
Campbell, VA		
Lynchburg City, VA		
4680 Macon, GA	0.8974	0.9285
Bibb, GA		
Houston, GA		
Jones, GA		
Peach, GA		
Twiggs, GA		
4720 Madison, WI	1.0271	1.0185
Dane, WI		
4800 Mansfield, OH ...	0.8690	0.9083
Crawford, OH		
Richland, OH		
4840 Mayaguez, PR ..	0.4589	0.5866
Anasco, PR		
Cabo Rojo, PR		
Hormigueros, PR		
Mayaguez, PR		
Sabana Grande, PR		
San German, PR		
4880 McAllen-Edinburg-Mission, TX	0.8566	0.8994
Hidalgo, TX		
4890 Medford-Ashland, OR	1.0344	1.0234
Jackson, OR		
4900 Melbourne-Titusville-Palm Bay, FL	0.9688	0.9785
Brevard, FL		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
4920 ¹ Memphis, TN—AR—MS	0.8723	0.9107
Crittenden, AR		
DeSoto, MS		
Fayette, TN		
Shelby, TN		
Tipton, TN		
4940 ² Merced, CA	0.9861	0.9905
Merced, CA		
5000 ¹ Miami, FL	1.0059	1.0040
Dade, FL		
5015 ¹ Middlesex—Somerset—Hunterdon, NJ	1.0333	1.0227
Hunterdon, NJ		
Middlesex, NJ		
Somerset, NJ		
5080 ¹ Milwaukee—Waukesha, WI	0.9767	0.9840
Milwaukee, WI		
Ozaukee, WI		
Washington, WI		
Waukesha, WI		
5120 ¹ Minneapolis—St. Paul, MN—WI	1.1017	1.0686
Anoka, MN		
Carver, MN		
Chisago, MN		
Dakota, MN		
Hennepin, MN		
Isanti, MN		
Ramsey, MN		
Scott, MN		
Sherburne, MN		
Washington, MN		
Wright, MN		
Pierce, WI		
St. Croix, WI		
5140 Missoula, MT	0.9332	0.9538
Missoula, MT		
5160 Mobile, AL	0.8163	0.8702
Baldwin, AL		
Mobile, AL		
5170 Modesto, CA	1.0396	1.0270
Stanislaus, CA		
5190 ¹ Monmouth—Ocean, NJ	1.1283	1.0862
Monmouth, NJ		
Ocean, NJ		
5200 Monroe, LA	0.8396	0.8872
Ouachita, LA		
5240 Montgomery, AL	0.7653	0.8326
Autauga, AL		
Elmore, AL		
Montgomery, AL		
5280 Muncie, IN	1.0969	1.0654
Delaware, IN		
5330 Myrtle Beach, SC	0.8440	0.8903
Horry, SC		
5345 Naples, FL	0.9661	0.9767
Collier, FL		
5360 ¹ Nashville, TN ..	0.9490	0.9648
Cheatham, TN		
Davidson, TN		
Dickson, TN		
Robertson, TN		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Rutherford, TN		
Sumner, TN		
Williamson, TN		
Wilson, TN		
5380 ¹ Nassau—Suffolk, NY	1.3932	1.2549
Nassau, NY		
Suffolk, NY		
5483 ¹ New Haven—Bridgeport—Stamford—Waterbury—Danbury, CT	1.2034	1.1352
Fairfield, CT		
New Haven, CT		
5523 New London—Norwich, CT	1.2063	1.1371
New London, CT		
5560 ¹ New Orleans, LA	0.9295	0.9512
Jefferson, LA		
Orleans, LA		
Plaquemines, LA		
St. Bernard, LA		
St. Charles, LA		
St. James, LA		
St. John The Baptist, LA		
St. Tammany, LA		
5600 ¹ New York, NY	1.4651	1.2989
Bronx, NY		
Kings, NY		
New York, NY		
Putnam, NY		
Queens, NY		
Richmond, NY		
Rockland, NY		
Westchester, NY		
5640 ¹ Newark, NJ	1.0757	1.0512
Essex, NJ		
Morris, NJ		
Sussex, NJ		
Union, NJ		
Warren, NJ		
5660 Newburgh, NY—PA	1.0847	1.0573
Orange, NY		
Pike, PA		
5720 ¹ Norfolk—Virginia Beach—Newport News, VA—NC	0.8422	0.8890
Currituck, NC		
Chesapeake City, VA		
Gloucester, VA		
Hampton City, VA		
Isle of Wight, VA		
James City, VA		
Mathews, VA		
Newport News City, VA		
Norfolk City, VA		
Poquoson City, VA		
Portsmouth City, VA		
Suffolk City, VA		
Virginia Beach City, VA		
Williamsburg City, VA		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
York, VA		
5775 ¹ Oakland, CA ...	1.4983	1.3190
Alameda, CA		
Contra Costa, CA		
5790 Ocala, FL.	0.9243	0.9475
Marion, FL		
5800 Odessa—Midland, TX	0.9205	0.9449
Ector, TX		
Midland, TX		
5880 ¹ Oklahoma City, OK	0.8822	0.9177
Canadian, OK		
Cleveland, OK		
Logan, OK		
McClain, OK		
Oklahoma, OK		
Pottawatomie, OK		
5910 Olympia, WA	1.0677	1.0459
Thurston, WA		
5920 Omaha, NE—IA ..	0.9572	0.9705
Pottawattamie, IA		
Cass, NE		
Douglas, NE		
Sarpy, NE		
Washington, NE		
5945 ¹ Orange County, CA	1.1411	1.0946
Orange, CA		
5960 ¹ Orlando, FL	0.9610	0.9731
Lake, FL		
Orange, FL		
Osceola, FL		
Seminole, FL		
5990 Owensboro, KY	0.8159	0.8699
Daviess, KY		
6015 Panama City, FL	0.9010	0.9311
Bay, FL		
6020 Parkersburg—Marietta, WV—OH (WV Hospitals)	0.8274	0.8783
Washington, OH		
Wood, WV		
6020 ² Parkersburg—Marietta, WV—OH (OH Hospitals)	0.8670	0.9069
Washington, OH		
Wood, WV		
6080 ² Pensacola, FL	0.8928	0.9253
Escambia, FL		
Santa Rosa, FL		
6120 Peoria—Pekin, IL	0.8646	0.9052
Peoria, IL		
Tazewell, IL		
Woodford, IL		
6160 ¹ Philadelphia, PA—NJ	1.0937	1.0633
Burlington, NJ		
Camden, NJ		
Gloucester, NJ		
Salem, NJ		
Bucks, PA		
Chester, PA		
Delaware, PA		
Montgomery, PA		
Philadelphia, PA		
6200 ¹ Phoenix—Mesa, AZ	0.9669	0.9772

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Maricopa, AZ Pinal, AZ		
6240 Pine Bluff, AR ...	0.7791	0.8429
Jefferson, AR		
6280 ¹ Pittsburgh, PA	0.9741	0.9822
Allegheny, PA		
Beaver, PA		
Butler, PA		
Fayette, PA		
Washington, PA		
Westmoreland, PA		
6323 ² Pittsfield, MA ...	1.1204	1.0810
Berkshire, MA		
6340 Pocatello, ID	0.9076	0.9358
Bannock, ID		
6360 Ponce, PR	0.5006	0.6226
Guayanilla, PR		
Juana Diaz, PR		
Penuelas, PR		
Ponce, PR		
Villalba, PR		
Yauco, PR		
6403 Portland, ME	0.9748	0.9827
Cumberland, ME		
Sagadahoc, ME		
York, ME		
6440 ¹ Portland-Vancouver, OR—WA	1.0910	1.0615
Clackamas, OR		
Columbia, OR		
Multnomah, OR		
Washington, OR		
Yamhill, OR		
Clark, WA		
6483 ¹ Providence-Warwick-Pawtucket, RI	1.0864	1.0584
Bristol, RI		
Kent, RI		
Newport, RI		
Providence, RI		
Washington, RI		
6520 Provo-Orem, UT	1.0041	1.0028
Utah, UT		
6560 ² Pueblo, CO	0.8968	0.9281
Pueblo, CO		
6580 Punta Gorda, FL	0.9613	0.9733
Charlotte, FL		
6600 Racine, WI	0.9246	0.9477
Racine, WI		
6640 ¹ Raleigh-Durham-Chapel Hill, NC	0.9646	0.9756
Chatham, NC		
Durham, NC		
Franklin, NC		
Johnston, NC		
Orange, NC		
Wake, NC		
6660 Rapid City, SD ..	0.8865	0.9208
Pennington, SD		
6680 Reading, PA	0.9152	0.9411
Berks, PA		
6690 Redding, CA	1.1664	1.1112
Shasta, CA		
6720 Reno, NV	1.0550	1.0373
Washoe, NV		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
6740 Richland-Kennewick-Pasco, WA	1.1460	1.0978
Benton, WA		
Franklin, WA		
6760 Richmond-Petersburg, VA	0.9617	0.9736
Charles City County, VA		
Chesterfield, VA		
Colonial Heights City, VA		
Dinwiddie, VA		
Goochland, VA		
Hanover, VA		
Henrico, VA		
Hopewell City, VA		
New Kent, VA		
Petersburg City, VA		
Powhatan, VA		
Prince George, VA		
Richmond City, VA		
6780 ¹ Riverside-San Bernardino, CA	1.1115	1.0751
Riverside, CA		
San Bernardino, CA		
6800 Roanoke, VA	0.8782	0.9149
Botetourt, VA		
Roanoke, VA		
Roanoke City, VA		
Salem City, VA		
6820 Rochester, MN ..	1.1315	1.0883
Olmsted, MN		
6840 ¹ Rochester, NY	0.9182	0.9432
Genesee, NY		
Livingston, NY		
Monroe, NY		
Ontario, NY		
Orleans, NY		
Wayne, NY		
6880 Rockford, IL	0.8819	0.9175
Boone, IL		
Ogle, IL		
Winnebago, IL		
6895 Rocky Mount, NC	0.8849	0.9197
Edgecombe, NC		
Nash, NC		
6920 ¹ Sacramento, CA	1.1957	1.1302
El Dorado, CA		
Placer, CA		
Sacramento, CA		
6960 Saginaw-Bay City-Midland, MI	0.9575	0.9707
Bay, MI		
Midland, MI		
Saginaw, MI		
6980 St. Cloud, MN ...	1.0016	1.0011
Benton, MN		
Stearns, MN		
7000 St. Joseph, MO	0.9071	0.9354
Andrew, MO		
Buchanan, MO		
7040 ¹ St. Louis, MO—IL	0.9049	0.9339
Clinton, IL		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Jersey, IL		
Madison, IL		
Monroe, IL		
St. Clair, IL		
Franklin, MO		
Jefferson, MO		
Lincoln, MO		
St. Charles, MO		
St. Louis, MO		
St. Louis City, MO		
Warren, MO		
7080 Salem, OR	1.0132	1.0090
Marion, OR		
Polk, OR		
7120 Salinas, CA	1.4502	1.2899
Monterey, CA		
7160 ¹ Salt Lake City-Ogden, UT	0.9811	0.9870
Davis, UT		
Salt Lake, UT		
Weber, UT		
7200 San Angelo, TX	0.8083	0.8644
Tom Green, TX		
7240 ¹ San Antonio, TX	0.8580	0.9004
Bexar, TX		
Comal, TX		
Guadalupe, TX		
Wilson, TX		
7320 ¹ San Diego, CA	1.1784	1.1190
San Diego, CA		
7360 ¹ San Francisco, CA	1.4193	1.2710
Marin, CA		
San Francisco, CA		
San Mateo, CA		
7400 ¹ San Jose, CA ..	1.3564	1.2321
Santa Clara, CA		
7440 ¹ San Juan-Bayamon, PR	0.4690	0.5954
Aguas Buenas, PR		
Barceloneta, PR		
Bayamon, PR		
Canovanas, PR		
Carolina, PR		
Catano, PR		
Ceiba, PR		
Comerio, PR		
Corozal, PR		
Dorado, PR		
Fajardo, PR		
Florida, PR		
Guaynabo, PR		
Humacao, PR		
Juncos, PR		
Los Piedras, PR		
Loiza, PR		
Luguillo, PR		
Manati, PR		
Morovis, PR		
Naguabo, PR		
Naranjito, PR		
Rio Grande, PR		
San Juan, PR		
Toa Alta, PR		
Toa Baja, PR		
Trujillo Alto, PR		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Vega Alta, PR		
Vega Baja, PR		
Yabucoa, PR		
7460 San Luis		
Obispo-Atascadero-Paso Robles, CA	1.0673	1.0456
San Luis Obispo, CA		
7480 Santa Barbara-Santa Maria-Lompoc, CA	1.0597	1.0405
Santa Barbara, CA		
7485 Santa Cruz-Watsonville, CA	1.4095	1.2650
Santa Cruz, CA		
7490 Santa Fe, NM	1.0537	1.0365
Los Alamos, NM		
Santa Fe, NM		
7500 Santa Rosa, CA	1.2646	1.1744
Sonoma, CA		
7510 Sarasota-Bradenton, FL	0.9809	0.9869
Manatee, FL		
Sarasota, FL		
7520 Savannah, GA ...	0.9697	0.9792
Bryan, GA		
Chatham, GA		
Effingham, GA		
7560 ² Scranton—Wilkes-Barre—Hazleton, PA	0.8578	0.9003
Columbia, PA		
Lackawanna, PA		
Luzerne, PA		
Wyoming, PA		
7600 ¹ Seattle-Bellevue-Everett, WA	1.1016	1.0685
Island, WA		
King, WA		
Snohomish, WA		
7610 ² Sharon, PA	0.8578	0.9003
Mercer, PA		
7620 ² Sheboygan, WI	0.8880	0.9219
Sheboygan, WI		
7640 Sherman-Denison, TX	0.8795	0.9158
Grayson, TX		
7680 Shreveport-Bossier City, LA	0.8750	0.9126
Bossier, LA		
Caddo, LA		
Webster, LA		
7720 Sioux City, IA—NE	0.8473	0.8927
Woodbury, IA		
Dakota, NE		
7760 Sioux Falls, SD	0.8790	0.9155
Lincoln, SD		
Minnehaha, SD		
7800 South Bend, IN	1.0029	1.0020
St. Joseph, IN		
7840 Spokane, WA	1.0513	1.0349
Spokane, WA		
7880 Springfield, IL	0.8685	0.9080
Menard, IL		
Sangamon, IL		
7920 Springfield, MO	0.8488	0.8938
Christian, MO		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Greene, MO		
Webster, MO		
8003 ² Springfield, MA	1.1204	1.0810
Hampden, MA		
Hampshire, MA		
8050 State College, PA	0.9038	0.9331
Centre, PA		
8080 ² Steubenville-Weirton, OH—WV (OH Hospitals)	0.8670	0.9069
Jefferson, OH		
Brooke, WV		
Hancock, WV		
8080 Steubenville-Weirton, OH—WV (WV Hospitals)	0.8548	0.8981
Jefferson, OH		
Brooke, WV		
Hancock, WV		
8120 Stockton-Lodi, CA	1.0629	1.0427
San Joaquin, CA		
8140 ² Sumter, SC	0.8370	0.8853
Sumter, SC		
8160 Syracuse, NY	0.9594	0.9720
Cayuga, NY		
Madison, NY		
Onondaga, NY		
Oswego, NY		
8200 Tacoma, WA	1.1564	1.1046
Pierce, WA		
8240 ² Tallahassee, FL	0.8928	0.9253
Gadsden, FL		
Leon, FL		
8280 ¹ Tampa-St. Petersburg-Clearwater, FL	0.9099	0.9374
Hernando, FL		
Hillsborough, FL		
Pasco, FL		
Pinellas, FL		
8320 ² Terre Haute, IN	0.8602	0.9020
Clay, IN		
Vermillion, IN		
Vigo, IN		
8360 Texarkana, AR—Texarkana, TX	0.8427	0.8894
Miller, AR		
Bowie, TX		
8400 Toledo, OH	0.9664	0.9769
Fulton, OH		
Lucas, OH		
Wood, OH		
8440 Topeka, KS	0.9117	0.9387
Shawnee, KS		
8480 Trenton, NJ	1.0137	1.0094
Mercer, NJ		
8520 Tucson, AZ	0.8821	0.9177
Pima, AZ		
8560 Tulsa, OK	0.8454	0.8914
Creek, OK		
Osage, OK		
Rogers, OK		
Tulsa, OK		
Wagoner, OK		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
8600 Tuscaloosa, AL	0.8064	0.8630
Tuscaloosa, AL		
8640 Tyler, TX	0.9404	0.9588
Smith, TX		
8680 Utica-Rome, NY	0.8560	0.8990
Herkimer, NY		
Oneida, NY		
8720 Vallejo-Fairfield-Napa, CA	1.2266	1.1501
Napa, CA		
Solano, CA		
8735 Ventura, CA	1.0479	1.0326
Ventura, CA		
8750 Victoria, TX	0.8154	0.8696
Victoria, TX		
8760 Vineland-Millville-Bridgeton, NJ	1.0501	1.0340
Cumberland, NJ		
8780 ² Visalia-Tulare-Porterville, CA	0.9861	0.9905
Tulare, CA		
8800 Waco, TX	0.8314	0.8812
McLennan, TX		
8840 ¹ Washington, DC—MD—VA—WV	1.0755	1.0511
District of Columbia, DC		
Calvert, MD		
Charles, MD		
Frederick, MD		
Montgomery, MD		
Prince Georges, MD		
Alexandria City, VA		
Arlington, VA		
Clarke, VA		
Culpeper, VA		
Fairfax, VA		
Fairfax City, VA		
Falls Church City, VA		
Fauquier, VA		
Fredericksburg City, VA		
King George, VA		
Loudoun, VA		
Manassas City, VA		
Manassas Park City, VA		
Prince William, VA		
Spotsylvania, VA		
Stafford, VA		
Warren, VA		
Berkeley, WV		
Jefferson, WV		
8920 Waterloo-Cedar Falls, IA	0.8802	0.9163
Black Hawk, IA		
8940 Wausau, WI	0.9426	0.9603
Marathon, WI		
8960 ¹ West Palm Beach-Boca Raton, FL	0.9615	0.9735
Palm Beach, FL		
9000 ² Wheeling, WV—OH (WV Hospitals) ...	0.8231	0.8752
Belmont, OH		
Marshall, WV		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Ohio, WV 9000 ² Wheeling, WV—OH (OH Hospitals)	0.8670	0.9069
Belmont, OH Marshall, WV Ohio, WV		
9040 Wichita, KS	0.9544	0.9685
Butler, KS Harvey, KS Sedgwick, KS		
9080 Wichita Falls, TX	0.7668	0.8337
Archer, TX Wichita, TX		
9140 ² Williamsport, PA	0.8578	0.9003
Lycoming, PA		
9160 Wilmington-Newark, DE—MD	1.1191	1.0801
New Castle, DE Cecil, MD		
9200 Wilmington, NC	0.9402	0.9587
New Hanover, NC Brunswick, NC		
9260 ² Yakima, WA	1.0434	1.0295
Yakima, WA		
9270 Yolo, CA	1.0199	1.0136
Yolo, CA		
9280 York, PA	0.9264	0.9490
York, PA		
9320 Youngstown-Warren, OH	0.9543	0.9685
Columbiana, OH Mahoning, OH Trumbull, OH		
9340 Yuba City, CA ...	1.0706	1.0478
Sutter, CA Yuba, CA		
9360 Yuma, AZ	0.9529	0.9675
Yuma, AZ		

¹ Large Urban Area.

² Hospitals geographically located in the area are assigned the statewide rural wage index for FY 2001.

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS

Nonurban area	Wage index	GAF
Alabama	0.7528	0.8233
Alaska	1.2392	1.1582
Arizona	0.8317	0.8814
Arkansas	0.7445	0.8171
California	0.9861	0.9905
Colorado	0.8968	0.9281
Connecticut	1.1715	1.1145
Delaware	0.9074	0.9356
Florida	0.8928	0.9253
Georgia	0.8329	0.8823
Hawaii	1.1059	1.0714
Idaho	0.8678	0.9075
Illinois	0.8160	0.8700
Indiana	0.8602	0.9020
Iowa	0.8030	0.8605

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS—Continued

Nonurban area	Wage index	GAF
Kansas	0.7605	0.8290
Kentucky	0.7931	0.8532
Louisiana	0.7713	0.8371
Maine	0.8766	0.9138
Maryland	0.8651	0.9055
Massachusetts	1.1204	1.0810
Michigan	0.9021	0.9319
Minnesota	0.8881	0.9219
Mississippi	0.7491	0.8205
Missouri	0.7707	0.8366
Montana	0.8688	0.9082
Nebraska	0.8109	0.8663
Nevada	0.9232	0.9467
New Hampshire	0.9845	0.9894
New Jersey ¹ .....	.....	.....
New Mexico	0.8497	0.8945
New York	0.8499	0.8946
North Carolina	0.8441	0.8904
North Dakota	0.7716	0.8373
Ohio	0.8670	0.9069
Oklahoma	0.7491	0.8205
Oregon	1.0132	1.0090
Pennsylvania	0.8578	0.9003
Puerto Rico	0.4264	0.5578
Rhode Island ¹ .....	.....	.....
South Carolina	0.8370	0.8853
South Dakota	0.7570	0.8264
Tennessee	0.7838	0.8464
Texas	0.7507	0.8217
Utah	0.9037	0.9330
Vermont	0.9427	0.9604
Virginia	0.8189	0.8721
Washington	1.0434	1.0295
West Virginia	0.8231	0.8752
Wisconsin	0.8880	0.9219
Wyoming	0.8817	0.9174

¹ All counties within the State are classified as urban.

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED

Area	Wage index	GAF
Abilene, TX	0.8240	0.8758
Akron, OH	0.9736	0.9818
Alexandria, LA	0.8170	0.8707
Amarillo, TX	0.8715	0.9101
Anchorage, AK	1.2865	1.1883
Ann Arbor, MI	1.1064	1.0717
Atlanta, GA	1.0096	1.0066
Atlantic-Cape May, NJ ..	1.0822	1.0556
Augusta-Aiken, GA—SC	0.9160	0.9417
Baton Rouge, LA	0.8734	0.9115
Benton Harbor, MI	0.9021	0.9319
Bergen-Passaic, NJ	1.1605	1.1073
Billings, MT	0.9591	0.9718
Binghamton, NY	0.8690	0.9083
Birmingham, AL	0.8477	0.8930
Bismarck, ND	0.7897	0.8507
Bloomington-Normal, IL	0.9156	0.9414
Boise City, ID	0.9042	0.9334

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Boston-Worcester-Lawrence-Lowell-Brockton, MA—NH (NH, RI, and VT Hospitals)	1.1160	1.0781
Burlington, VT	1.0550	1.0373
Casper, WY	0.8817	0.9174
Champaign-Urbana, IL	0.9084	0.9363
Charleston-North Charleston, SC	0.9067	0.9351
Charleston, WV	0.8904	0.9236
Charlotte-Gastonia-Rock Hill, NC—SC	0.9391	0.9579
Chattanooga, TN—GA ...	0.9624	0.9741
Chicago, IL	1.1015	1.0684
Cincinnati, OH—KY—IN ..	0.9415	0.9596
Clarksville-Hopkinsville, TN—KY	0.8277	0.8785
Cleveland-Lorain-Elyria, OH	0.9593	0.9719
Columbia, MO	0.8756	0.9130
Columbia, SC	0.9433	0.9608
Columbus, OH	0.9619	0.9737
Dallas, TX	0.9913	0.9940
Danville, VA	0.8212	0.8738
Davenport-Moline-Rock Island, IA—IL	0.8898	0.9232
Dayton-Springfield, OH	0.9442	0.9614
Denver, CO	1.0181	1.0124
Des Moines, IA	0.9011	0.9312
Dothan, AL	0.8013	0.8592
Dover, DE	0.9769	0.9841
Duluth-Superior, MN—WI	1.0043	1.0029
Eau Claire, WI	0.8880	0.9219
Erie, PA	0.8985	0.9293
Eugene-Springfield, OR	1.0965	1.0651
Fargo-Moorhead, ND—MN	0.8517	0.8959
Fayetteville, NC	0.8469	0.8924
Flagstaff, AZ—UT	1.0525	1.0357
Flint, MI	1.1058	1.0713
Florence, AL	0.7652	0.8325
Florence, SC	0.8777	0.9145
Fort Collins-Loveland, CO	1.0647	1.0439
Ft. Lauderdale, FL	1.0152	1.0104
Fort Pierce-Port St. Lucie, FL	0.9622	0.9740
Fort Smith, AR—OK	0.7947	0.8544
Fort Walton Beach, FL	0.9358	0.9556
Fort Wayne, IN	0.8665	0.9065
Forth Worth-Arlington, TX	0.9527	0.9674
Gadsden, AL	0.8423	0.8891
Grand Forks, ND—MN ...	0.8954	0.9271
Grand Junction, CO	0.9471	0.9635
Grand Rapids-Muskegon-Holland, MI	1.0248	1.0169
Great Falls, MT	0.9331	0.9537
Greeley, CO	0.9573	0.9706
Green Bay, WI	0.9308	0.9521
Greensboro-Winston-Salem-High Point, NC	0.9124	0.9391
Greenville, NC	0.9172	0.9425
Greenville-Spartanburg-Anderson, SC	0.9003	0.9306
Harrisburg-Lebanon-Carlisle, PA	0.9386	0.9575

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Hartford, CT (MA Hospital)	1.1420	1.0952
Hattiesburg, MS	0.7491	0.8205
Hickory-Morganton-Lenoir, NC	0.8577	0.9002
Honolulu, HI	1.1866	1.1243
Houston, TX	0.9732	0.9816
Huntington-Ashland, WV-KY-OH	0.9605	0.9728
Huntsville, AL	0.8779	0.9147
Indianapolis, IN	0.9787	0.9854
Jackson, MS	0.8698	0.9089
Jackson, TN	0.8796	0.9159
Jacksonville, FL	0.9208	0.9451
Jersey City, NJ	1.1573	1.1052
Johnson City-Kingsport-Bristol, TN-VA	0.8328	0.8822
Joplin, MO	0.8148	0.8691
Kalamazoo-Battlecreek, MI	1.0311	1.0212
Kansas City, KS-MO	0.9498	0.9653
Knoxville, TN	0.8340	0.8831
Kokomo, IN	0.9525	0.9672
Lafayette, LA	0.8490	0.8940
Lansing-East Lansing, MI	0.9934	0.9955
Las Cruces, NM	0.8510	0.8954
Las Vegas, NV-AZ	1.0796	1.0538
Lexington, KY	0.8712	0.9099
Lima, OH	0.9320	0.9529
Lincoln, NE	0.9666	0.9770
Little Rock-North Little Rock, AR	0.8791	0.9155
Longview-Marshall, TX	0.8732	0.9113
Los Angeles-Long Beach, CA	1.2033	1.1351
Louisville, KY-IN	0.9350	0.9550
Lynchburg, VA	0.8749	0.9125
Macon, GA	0.8974	0.9285
Madison, WI	1.0271	1.0185
Mansfield, OH	0.8690	0.9083
Memphis, TN-AR-MS ..	0.8584	0.9007
Milwaukee-Waukesha, WI	0.9767	0.9840
Minneapolis-St. Paul, MN-WI	1.1017	1.0686
Missoula, MT	0.9332	0.9538
Mobile, AL	0.8163	0.8702
Monmouth-Ocean, NJ ..	1.1283	1.0862
Montgomery, AL	0.7653	0.8326
Myrtle Beach, SC (NC Hospital)	0.8441	0.8904
Nashville, TN	0.9301	0.9516
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2034	1.1352
New London-Norwich, CT	1.1926	1.1282
New Orleans, LA	0.9295	0.9512
New York, NY	1.4463	1.2875
Newburgh, NY-PA	1.0666	1.0451
Norfolk-Virginia Beach-Newsport News, VA-NC	0.8441	0.8904
Oakland, CA	1.4983	1.3190
Ocala, FL	0.9243	0.9475
Odessa-Midland, TX	0.9074	0.9356

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Oklahoma City, OK	0.8822	0.9177
Omaha, NE-IA	0.9572	0.9705
Orange County, CA	1.1411	1.0946
Orlando, FL	0.9610	0.9731
Peoria-Pekin, IL	0.8646	0.9052
Philadelphia, PA-NJ	1.0937	1.0633
Pine Bluff, AR	0.7680	0.8346
Pittsburgh, PA	0.9575	0.9707
Pittsfield, MA (VT Hospital)	0.9914	0.9941
Pocatello, ID	0.8715	0.9101
Portland, ME	0.9629	0.9744
Portland-Vancouver, OR-WA	1.0910	1.0615
Provo-Orem, UT	1.0041	1.0028
Raleigh-Durham-Chapel Hill, NC	0.9646	0.9756
Rapid City, SD	0.8865	0.9208
Redding, CA	1.1664	1.1112
Reno, NV	1.0438	1.0298
Richland-Kennewick-Pasco, WA	1.1147	1.0772
Roanoke, VA	0.8782	0.9149
Rochester, MN	1.1315	1.0883
Rockford, IL	0.8819	0.9175
Sacramento, CA	1.1957	1.1302
Saginaw-Bay City-Midland, MI	0.9575	0.9707
St. Cloud, MN	1.0016	1.0011
St. Joseph, MO	0.8848	0.9196
St. Louis, MO-IL	0.9049	0.9339
Salinas, CA	1.4502	1.2899
Salt Lake City-Ogden, UT	0.9811	0.9870
San Diego, CA	1.1784	1.1190
Santa Cruz-Watsonville, CA	1.3897	1.2528
Santa Fe, NM	1.0000	1.0000
Santa Rosa, CA	1.2398	1.1586
Seattle-Bellevue-Everett, WA	1.1016	1.0685
Sherman-Denison, TX ..	0.8795	0.9158
Sioux City, IA-NE	0.8473	0.8927
South Bend, IN	1.0029	1.0020
Spokane, WA	1.0333	1.0227
Springfield, IL	0.8685	0.9080
Springfield, MO	0.8212	0.8738
Syracuse, NY	0.9594	0.9720
Tampa-St. Petersburg-Clearwater, FL	0.9099	0.9374
Texarkana, AR-Texasarkana, TX	0.8427	0.8894
Toledo, OH	0.9664	0.9769
Topeka, KS	0.9117	0.9387
Tucson, AZ	0.8821	0.9177
Tulsa, OK	0.8454	0.8914
Tuscaloosa, AL	0.8064	0.8630
Tyler, TX	0.9141	0.9403
Victoria, TX	0.8154	0.8696
Washington, DC-MD-VA-WV	1.0755	1.0511
Waterloo-Cedar Falls, IA	0.8802	0.9163
Wausau, WI	0.9426	0.9603
Wichita, KS	0.9262	0.9489
Rural Alabama	0.7528	0.8233
Rural Florida	0.8928	0.9253

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Rural Illinois	0.8160	0.8700
Rural Louisiana	0.7713	0.8371
Rural Michigan	0.9021	0.9319
Rural Minnesota	0.8881	0.9219
Rural Missouri	0.7707	0.8366
Rural Montana	0.8688	0.9082
Rural Oregon	1.0132	1.0090
Rural Texas	0.7507	0.8217
Rural Washington	1.0434	1.0295
Rural West Virginia	0.8231	0.8752
Rural Wisconsin	0.8880	0.9219
Rural Wyoming (NE Hospital)	0.8671	0.9070

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS

Urban area	Average hourly wage
Abilene, TX	17.9387
Aguadilla, PR	9.5583
Akron, OH	21.1962
Albany, GA	21.6247
Albany-Schenectady-Troy, NY	18.6106
Albuquerque, NM	19.8899
Alexandria, LA	17.7452
Allentown-Bethlehem-Easton, PA	21.8571
Altoona, PA	20.3472
Amarillo, TX	18.9724
Anchorage, AK	27.8515
Ann Arbor, MI	24.5003
Anniston, AL	18.0347
Appleton-Oshkosh-Neenah, WI	19.7058
Arecibo, PR	9.8505
Asheville, NC	20.7157
Athens, GA	21.2027
Atlanta, GA	21.9792
Atlantic-Cape May, NJ	24.3440
Auburn-Opelika, AL	17.6461
Augusta-Aiken, GA-SC	19.9424
Austin-San Marcos, TX	20.8502
Bakersfield, CA	21.0688
Baltimore, MD	20.3888
Bangor, ME	20.8150
Barnstable-Yarmouth, MA	30.1277
Baton Rouge, LA	19.2487
Beaumont-Port Arthur, TX	19.0352
Bellingham, WA	24.9039
Benton Harbor, MI	18.8768
Bergen-Passaic, NJ	25.7937
Billings, MT	20.8676
Biloxi-Gulfport-Pascagoula, MS	17.9290
Binghamton, NY	18.9175
Birmingham, AL	18.4002
Bismarck, ND	16.7742
Bloomington, IN	19.0130
Bloomington-Normal, IL	19.8003
Boise City, ID	19.6053
Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH	24.2959
Boulder-Longmont, CO	21.1843
Brazoria, TX	18.8483
Bremerton, WA	23.8918
Brownsville-Harlingen-San Benito, TX	18.9870

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Bryan-College Station, TX	17.9324
Buffalo-Niagara Falls, NY	20.8552
Burlington, VT	23.3707
Caguas, PR	9.9325
Canton-Massillon, OH	18.6867
Casper, WY	18.9923
Cedar Rapids, IA	19.0186
Champaign-Urbana, IL	20.0245
Charleston-North Charleston, SC	19.6765
Charleston, WV	20.1160
Charlotte-Gastonia-Rock Hill, NC-SC	20.4436
Charlottesville, VA	23.4885
Chattanooga, TN-GA	21.4064
Cheyenne, WY	18.0869
Chicago, IL	24.2653
Chico-Paradise, CA	21.5925
Cincinnati, OH-KY-IN	20.4967
Clarksville-Hopkinsville, TN-KY	17.8606
Cleveland-Lorain-Elyria, OH	20.8921
Colorado Springs, CO	21.1114
Columbia, MO	19.5074
Columbia, SC	20.7995
Columbus, GA-AL	18.6521
Columbus, OH	20.9403
Corpus Christi, TX	18.9962
Corvallis, OR	24.6574
Cumberland, MD-WV	18.2190
Dallas, TX	21.5801
Danville, VA	18.6983
Davenport-Moline-Rock Island, IA-IL	19.3712
Dayton-Springfield, OH	20.5545
Daytona Beach, FL	20.0282
Decatur, AL	18.5791
Decatur, IL	17.6894
Denver, CO	22.1647
Des Moines, IA	19.8508
Detroit, MI	22.8814
Dothan, AL	17.2926
Dover, DE	21.9391
Dubuque, IA	19.0397
Duluth-Superior, MN-WI	21.8388
Dutchess County, NY	22.3121
Eau Claire, WI	19.1358
El Paso, TX	20.3455
Elkhart-Goshen, IN	19.9093
Elmira, NY	18.6041
Enid, OK	18.7450
Erie, PA	19.5597
Eugene-Springfield, OR	23.8704
Evansville, Henderson, IN-KY	17.7939
Fargo-Moorhead, ND-MN	19.0467
Fayetteville, NC	18.8418
Fayetteville-Springdale-Rogers, AR	17.2213
Flagstaff, AZ-UT	23.2631
Flint, MI	24.3942
Florence, AL	16.5808
Florence, SC	19.1069
Fort Collins-Loveland, CO	23.1791
Fort Lauderdale, FL	22.0334
Fort Myers-Cape Coral, FL	20.1312
Fort Pierce-Port St. Lucie, FL	20.7635
Fort Smith, AR-OK	17.5292
Fort Walton Beach, FL	20.9154
Fort Wayne, IN	18.8629
Fort Worth-Arlington, TX	20.7411
Fresno, CA	21.9976

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Gadsden, AL	18.3371
Gainesville, FL	21.9311
Galveston-Texas City, TX	21.5917
Gary, IN	20.5814
Glens Falls, NY	18.2029
Goldsboro, NC	18.3380
Grand Forks, ND-MN	19.1930
Grand Junction, CO	19.8299
Grand Rapids-Muskegon-Holland, MI	22.3091
Great Falls, MT	19.7346
Greeley, CO	21.3659
Green Bay, WI	20.0839
Greensboro-Winston-Salem-High Point, NC	19.8775
Greenville, NC	20.4282
Greenville-Spartanburg-Anderson, SC	19.5991
Hagerstown, MD	20.4841
Hamilton-Middletown, OH	19.7254
Harrisburg-Lebanon-Carlisle, PA	20.4334
Hartford, CT	24.7589
Hattiesburg, MS	16.3068
Hickory-Morganton-Lenoir, NC	19.6096
Honolulu, HI	25.8269
Houma, LA	17.6029
Houston, TX	21.1868
Huntington-Ashland, WV-KY-OH	21.4993
Huntsville, AL	19.4455
Indianapolis, IN	21.3060
Iowa City, IA	21.0244
Jackson, MI	19.8852
Jackson, MS	19.1842
Jackson, TN	19.1498
Jacksonville, FL	20.0465
Jacksonville, NC	16.9298
Jamestown, NY	17.0195
Janesville-Beloit, WI	20.8677
Jersey City, NJ	25.0412
Johnson City-Kingsport-Bristol, TN-VA	18.0083
Johnstown, PA	19.2587
Jonesboro, AR	17.0500
Joplin, MO	17.7376
Kalamazoo-Battlecreek, MI	22.7571
Kankakee, IL	21.5573
Kansas City, KS-MO	20.6781
Kenosha, WI	20.9242
Killeen-Temple, TX	22.0298
Knoxville, TN	18.1556
Kokomo, IN	20.7207
La Crosse, WI-MN	20.0533
Lafayette, LA	18.4838
Lafayette, IN	19.2317
Lake Charles, LA	16.1070
Lakeland-Winter Haven, FL	20.1126
Lancaster, PA	20.1576
Lansing-East Lansing, MI	21.6264
Laredo, TX	17.7822
Las Cruces, NM	18.8479
Las Vegas, NV-AZ	23.5027
Lawrence, KS	17.8290
Lawton, OK	19.5850
Lewiston-Auburn, ME	19.6724
Lexington, KY	19.3007
Lima, OH	20.2889
Lincoln, NE	20.9569
Little Rock-North Little Rock, AR	19.3875
Longview-Marshall, TX	19.4243

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Los Angeles-Long Beach, CA	26.1164
Louisville, KY-IN	20.3544
Lubbock, TX	19.2404
Lynchburg, VA	19.3031
Macon, GA	19.5357
Madison, WI	22.3606
Mansfield, OH	18.9191
Mayaguez, PR	9.9900
McAllen-Edinburg-Mission, TX	18.6487
Medford-Ashland, OR	22.5185
Melbourne-Titusville-Palm Bay, FL	21.0904
Memphis, TN-AR-MS	18.9896
Merced, CA	20.9989
Miami, FL	21.8997
Middlesex-Somerset-Hunterdon, NJ	24.1094
Milwaukee-Waukesha, WI	21.2638
Minneapolis-St. Paul, MN-WI	23.9833
Missoula, MT	20.1896
Mobile, AL	17.7700
Modesto, CA	22.6325
Monmouth-Ocean, NJ	24.5529
Monroe, LA	18.2776
Montgomery, AL	16.6605
Muncie, IN	23.8791
Myrtle Beach, SC	18.3751
Naples, FL	21.0332
Nashville, TN	20.6601
Nassau-Suffolk, NY	30.3304
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	26.7711
New London-Norwich, CT	26.2605
New Orleans, LA	20.2347
New York, NY	31.8954
Newark, NJ	25.7698
Newburgh, NY-PA	23.6150
Norfolk-Virginia Beach-Newport News, VA-NC	18.3132
Oakland, CA	32.6189
Ocala, FL	20.1230
Odessa-Midland, TX	20.0403
Oklahoma City, OK	19.2048
Olympia, WA	23.2441
Omaha, NE-IA	20.8374
Orange County, CA	24.9648
Orlando, FL	20.9206
Owensboro, KY	17.7626
Panama City, FL	19.6150
Parkersburg-Marietta, WV-OH	18.0122
Pensacola, FL	17.7997
Peoria-Pekin, IL	18.8206
Philadelphia, PA-NJ	23.8095
Phoenix-Mesa, AZ	21.0494
Pine Bluff, AR	16.9610
Pittsburgh, PA	21.2070
Pittsfield, MA	22.3968
Pocatello, ID	19.7591
Ponce, PR	10.8985
Portland, ME	21.2220
Portland-Vancouver, OR-WA	23.7513
Providence-Warwick, RI	23.6503
Provo-Orem, UT	21.8338
Pueblo, CO	19.1909
Punta Gorda, FL	20.9268
Racine, WI	20.1287
Raleigh-Durham-Chapel Hill, NC	21.0003
Rapid City, SD	19.2995
Reading, PA	19.9251
Redding, CA	25.3926

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Reno, NV	22.9669
Richland-Kennewick-Pasco, WA ..	24.9481
Richmond-Petersburg, VA	20.9366
Riverside-San Bernardino, CA	24.4685
Roanoke, VA	19.0494
Rochester, MN	24.6337
Rochester, NY	19.9884
Rockford, IL	19.1994
Rocky Mount, NC	19.2653
Sacramento, CA	26.0143
Saginaw-Bay City-Midland, MI	20.8446
St. Cloud, MN	21.8042
St. Joseph, MO	19.7467
St. Louis, MO-IL	19.6997
Salem, OR	22.1817
Salinas, CA	31.5702
Salt Lake City-Ogden, UT	21.3500
San Angelo, TX	17.5980
San Antonio, TX	18.6797
San Diego, CA	25.6544
San Francisco, CA	30.8184
San Jose, CA	29.7210
San Juan-Bayamon, PR	10.2110
San Luis Obispo-Atascadero-Paso Robles, CA	23.2360
Santa Barbara-Santa Maria-Lompoc, CA	23.0707
Santa Cruz-Watsonville, CA	30.5664
Santa Fe, NM	22.9400
Santa Rosa, CA	27.5311
Sarasota-Bradenton, FL	21.3554
Savannah, GA	21.1099
Scranton-Wilkes Barre-Hazleton, PA	18.3332
Seattle-Bellevue-Everett, WA	23.9393
Sharon, PA	17.2591
Sheboygan, WI	18.2407
Sherman-Denison, TX	18.9273
Shreveport-Bossier City, LA	19.0499
Sioux City, IA-NE	18.4457
Sioux Falls, SD	19.1359
South Bend, IN	21.7709
Spokane, WA	22.8867
Springfield, IL	18.9066
Springfield, MO	18.4778
Springfield, MA	23.1578
State College, PA	19.6769
Steubenville-Weirton, OH-WV	18.6092
Stockton-Lodi, CA	23.1397
Sumter, SC	18.0057

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Syracuse, NY	20.7876
Tacoma, WA	25.1749
Tallahassee, FL	18.6017
Tampa-St. Petersburg-Clearwater, FL	19.5532
Terre Haute, IN	18.0773
Texarkana, AR-Texarkana, TX	18.2062
Toledo, OH	21.4050
Topeka, KS	19.8476
Trenton, NJ	22.0690
Tucson, AZ	19.1447
Tulsa, OK	18.4038
Tuscaloosa, AL	17.5550
Tyler, TX	20.4737
Utica-Rome, NY	18.6360
Vallejo-Fairfield-Napa, CA	27.9688
Ventura, CA	24.0125
Victoria, TX	17.7514
Vineland-Millville-Bridgeton, NJ	22.8607
Visalia-Tulare-Porterville, CA	20.7921
Waco, TX	18.1006
Washington, DC-MD-VA-WV	23.4147
Waterloo-Cedar Falls, IA	18.2949
Wausau, WI	20.5039
West Palm Beach-Boca Raton, FL	21.0777
Wheeling, OH-WV	16.8341
Wichita, KS	20.7776
Wichita Falls, TX	16.6925
Williamsport, PA	18.2688
Wilmington-Newark, DE-MD	24.3629
Wilmington, NC	20.4690
Yakima, WA	21.5675
Yolo, CA	22.2042
York, PA	20.1674
Youngstown-Warren, OH	20.7757
Yuba City, CA	23.3065
Yuma, AZ	20.7458

TABLE 4E.—AVERAGE HOURLY WAGE FOR RURAL AREAS

Nonurban area	Average hourly wage
Alabama	16.3047
Alaska	26.9769
Arizona	18.1056
Arkansas	16.2080

TABLE 4E.—AVERAGE HOURLY WAGE FOR RURAL AREAS—Continued

Nonurban area	Average hourly wage
California	21.4673
Colorado	19.5235
Connecticut	25.5035
Delaware	19.7543
Florida	19.4165
Georgia	18.1321
Hawaii	24.0749
Idaho	18.8912
Illinois	17.7653
Indiana	18.7277
Iowa	17.4823
Kansas	16.5568
Kentucky	17.2663
Louisiana	16.6925
Maine	19.0838
Maryland	18.8330
Massachusetts	24.3924
Michigan	19.5659
Minnesota	19.3332
Mississippi	16.3073
Missouri	16.7596
Montana	18.9143
Nebraska	17.6541
Nevada	20.0985
New Hampshire	21.4334
New Jersey ¹ .....	.....
New Mexico	18.4985
New York	18.5034
North Carolina	18.3772
North Dakota	16.7982
Ohio	18.8756
Oklahoma	16.3084
Oregon	22.0574
Pennsylvania	18.6739
Puerto Rico	9.2817
Rhode Island ¹ .....	.....
South Carolina	18.2215
South Dakota	16.4806
Tennessee	17.0628
Texas	16.3317
Utah	19.6740
Vermont	20.1891
Virginia	17.8284
Washington	22.7144
West Virginia	17.9182
Wisconsin	19.3321
Wyoming	19.1944

¹ All counties within the State are classified as urban.

TABLE 4F.—PUERTO RICO WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF)

Area	Wage index	GAF	Wage index—reclass. hospitals	GAF—reclass. hospitals
Aguadilla, PR	0.9380	0.9571	.....	.....
Arecibo, PR	0.9667	0.9771	.....	.....
Caguas, PR	0.9747	0.9826	.....	.....
Mayaguez, PR	0.9803	0.9865	.....	.....
Ponce, PR	1.0695	1.0471	.....	.....
San Juan-Bayamon, PR	1.0020	1.0014	.....	.....
Rural Puerto Rico	0.9108	0.9380	.....	.....

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
1	01	SURG	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.0970	6.3	9.1
2	01	SURG	CRANIOTOMY FOR TRAUMA AGE >17	3.1142	7.3	9.7
3	01	SURG	*CRANIOTOMY AGE 0-17	1.9629	12.7	12.7
4	01	SURG	SPINAL PROCEDURES	2.2918	4.8	7.4
5	01	SURG	EXTRACRANIAL VASCULAR PROCEDURES	1.4321	2.3	3.3
6	01	SURG	CARPAL TUNNEL RELEASE	.8246	2.2	3.2
7	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	2.5919	6.9	10.3
8	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC.	1.3948	2.1	3.0
9	01	MED	SPINAL DISORDERS & INJURIES	1.3134	4.7	6.6
10	01	MED	NERVOUS SYSTEM NEOPLASMS W CC	1.2273	4.9	6.7
11	01	MED	NERVOUS SYSTEM NEOPLASMS W/O CC	.8345	3.1	4.2
12	01	MED	DEGENERATIVE NERVOUS SYSTEM DISORDERS	.8925	4.5	6.1
13	01	MED	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	.7644	4.1	5.1
14	01	MED	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.2070	4.7	6.1
15	01	MED	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	.7480	2.9	3.6
16	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.1652	4.7	6.2
17	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	.6539	2.6	3.4
18	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	.9600	4.3	5.6
19	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	.6963	2.9	3.7
20	01	MED	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	2.7744	7.9	10.6
21	01	MED	VIRAL MENINGITIS	1.4966	5.2	6.9
22	01	MED	HYPERTENSIVE ENCEPHALOPATHY	1.0082	3.8	5.0
23	01	MED	NONTRAUMATIC STUPOR & COMA	.8027	3.2	4.2
24	01	MED	SEIZURE & HEADACHE AGE >17 W CC	.9914	3.7	5.0
25	01	MED	SEIZURE & HEADACHE AGE >17 W/O CC	.6043	2.6	3.3
26	01	MED	SEIZURE & HEADACHE AGE 0-17	.6441	2.4	3.2
27	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR	1.2912	3.2	5.1
28	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W CC	1.3102	4.5	6.3
29	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE ≤17 W/O CC	.7015	2.8	3.7
30	01	MED	*TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	.3320	2.0	2.0
31	01	MED	CONCUSSION AGE >17 W CC	.8715	3.1	4.2
32	01	MED	CONCUSSION AGE >17 W/O CC	.5422	2.1	2.7
33	01	MED	*CONCUSSION AGE 0-17	.2086	1.6	1.6
34	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W CC	1.0099	3.8	5.2
35	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	.6027	2.7	3.4
36	02	SURG	RETINAL PROCEDURES	.6639	1.2	1.4
37	02	SURG	ORBITAL PROCEDURES	1.0016	2.6	3.7
38	02	SURG	PRIMARY IRIS PROCEDURES	.4833	1.8	2.5
39	02	SURG	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	.5778	1.5	1.9
40	02	SURG	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	.8635	2.3	3.6
41	02	SURG	*EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	.3380	1.6	1.6
42	02	SURG	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	.6478	1.6	2.2
43	02	MED	HYPHEMA	.4977	2.6	3.4
44	02	MED	ACUTE MAJOR EYE INFECTIONS	.6337	4.1	5.0
45	02	MED	NEUROLOGICAL EYE DISORDERS	.7022	2.7	3.3
46	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W CC	.7749	3.5	4.6
47	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	.5085	2.5	3.3
48	02	MED	*OTHER DISORDERS OF THE EYE AGE 0-17	.2977	2.9	2.9
49	03	SURG	MAJOR HEAD & NECK PROCEDURES	1.8301	3.5	5.0
50	03	SURG	SIALOADENECTOMY	.8537	1.6	2.0
51	03	SURG	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	.7934	1.8	2.5
52	03	SURG	CLEFT LIP & PALATE REPAIR	.8410	1.6	2.1
53	03	SURG	SINUS & MASTOID PROCEDURES AGE >17	1.2118	2.3	3.7
54	03	SURG	*SINUS & MASTOID PROCEDURES AGE 0-17	.4826	3.2	3.2
55	03	SURG	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES.	.9039	1.9	2.9
56	03	SURG	RHINOPLASTY	.9451	2.1	3.1
57	03	SURG	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17.	1.0704	2.5	4.0
58	03	SURG	*T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17.	.2740	1.5	1.5
59	03	SURG	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	.6943	1.8	2.5
60	03	SURG	*TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	.2087	1.5	1.5
61	03	SURG	MYRINGOTOMY W TUBE INSERTION AGE >17	1.2660	2.8	4.8
62	03	SURG	*MYRINGOTOMY W TUBE INSERTION AGE 0-17	.2955	1.3	1.3
63	03	SURG	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.3402	3.0	4.3
64	03	MED	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.2288	4.3	6.5
65	03	MED	DYSEQUILIBRIUM	.5385	2.3	2.9

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
66	03	MED	EPISTAXIS .....	.5590	2.5	3.2
67	03	MED	EPIGLOTTITIS .....	.8105	2.8	3.5
68	03	MED	OTITIS MEDIA & URI AGE >17 W CC .....	.6750	3.4	4.2
69	03	MED	OTITIS MEDIA & URI AGE >17 W/O CC .....	.5152	2.7	3.3
70	03	MED	OTITIS MEDIA & URI AGE 0-17 .....	.4628	2.4	2.9
71	03	MED	LARYNGOTRACHEITIS .....	.7712	3.0	3.9
72	03	MED	NASAL TRAUMA & DEFORMITY .....	.6428	2.6	3.3
73	03	MED	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17 ...	.7777	3.3	4.4
74	03	MED	*OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	.3358	2.1	2.1
75	04	SURG	MAJOR CHEST PROCEDURES	3.1331	7.8	10.0
76	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.7908	8.4	11.3
77	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.1887	3.5	5.0
78	04	MED	PULMONARY EMBOLISM	1.3698	6.0	7.0
79	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	1.6501	6.6	8.5
80	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC.	.9373	4.7	5.8
81	04	MED	*RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	1.5204	6.1	6.1
82	04	MED	RESPIRATORY NEOPLASMS	1.3799	5.2	7.0
83	04	MED	MAJOR CHEST TRAUMA W CC .....	.9808	4.4	5.6
84	04	MED	MAJOR CHEST TRAUMA W/O CC .....	.5539	2.8	3.4
85	04	MED	PLEURAL EFFUSION W CC	1.2198	4.9	6.4
86	04	MED	PLEURAL EFFUSION W/O CC .....	.6984	2.9	3.8
87	04	MED	PULMONARY EDEMA & RESPIRATORY FAILURE	1.3781	4.8	6.3
88	04	MED	CHRONIC OBSTRUCTIVE PULMONARY DISEASE .....	.9317	4.2	5.2
89	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	1.0647	5.0	6.0
90	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC .....	.6590	3.6	4.2
91	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE 0-17 .....	.6890	2.8	3.4
92	04	MED	INTERSTITIAL LUNG DISEASE W CC	1.1863	5.0	6.3
93	04	MED	INTERSTITIAL LUNG DISEASE W/O CC .....	.7309	3.3	4.1
94	04	MED	PNEUMOTHORAX W CC	1.1704	4.8	6.3
95	04	MED	PNEUMOTHORAX W/O CC .....	.6098	3.0	3.7
96	04	MED	BRONCHITIS & ASTHMA AGE >17 W CC .....	.7871	3.9	4.7
97	04	MED	BRONCHITIS & ASTHMA AGE >17 W/O CC .....	.5873	3.1	3.7
98	04	MED	BRONCHITIS & ASTHMA AGE 0-17 .....	.8768	3.2	4.7
99	04	MED	RESPIRATORY SIGNS & SYMPTOMS W CC .....	.7117	2.5	3.2
100	04	MED	RESPIRATORY SIGNS & SYMPTOMS W/O CC .....	.5437	1.8	2.2
101	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES W CC .....	.8563	3.3	4.4
102	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC .....	.5550	2.1	2.7
103	PRE	SURG	HEART TRANSPLANT	19.0098	30.7	51.8
104	05	SURG	CARDIAC VALVE & OTHER MAJOR CARDIOTHORACIC PROC W CARDIAC CATH.	7.1843	8.9	11.7
105	05	SURG	CARDIAC VALVE & OTHER MAJOR CARDIOTHORACIC PROC W/O CARDIAC CATH.	5.6567	7.4	9.3
106	05	SURG	CORONARY BYPASS W PTCA	7.5203	9.3	11.2
107	05	SURG	CORONARY BYPASS W CARDIAC CATH	5.3762	9.2	10.3
108	05	SURG	OTHER CARDIOTHORACIC PROCEDURES	5.6525	8.0	10.6
109	05	SURG	CORONARY BYPASS W/O PTCA OR CARDIAC CATH	4.0198	6.8	7.7
110	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES W CC	4.1358	7.1	9.5
111	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	2.2410	4.7	5.5
112	05	SURG	PERCUTANEOUS CARDIOVASCULAR PROCEDURES	1.8677	2.6	3.8
113	05	SURG	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE.	2.7806	9.8	12.8
114	05	SURG	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS.	1.5656	6.0	8.3
115	05	SURG	PRM CARD PACEM IMPL W AMI,HRT FAIL OR SHK,OR AICD LEAD OR GNRTR PR.	3.4711	6.0	8.4
116	05	SURG	OTH PERM CARD PACEMAK IMPL OR PTCA W CORONARY ARTERY STENT IMPLNT.	2.4190	2.6	3.7
117	05	SURG	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT.	1.2966	2.6	4.0
118	05	SURG	CARDIAC PACEMAKER DEVICE REPLACEMENT	1.4939	1.9	2.8
119	05	SURG	VEIN LIGATION & STRIPPING	1.2600	2.9	4.9
120	05	SURG	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.0352	4.9	8.1
121	05	MED	CIRCULATORY DISORDERS W AMI & MAJOR COMP, DISCHARGED ALIVE.	1.6194	5.5	6.7
122	05	MED	CIRCULATORY DISORDERS W AMI W/O MAJOR COMP, DISCHARGED ALIVE.	1.0884	3.3	4.0
123	05	MED	CIRCULATORY DISORDERS W AMI, EXPIRED	1.5528	2.8	4.6

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
124 ...	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG.	1.4134	3.3	4.4
125 ...	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG.	1.0606	2.2	2.8
126 ...	05	MED	ACUTE & SUBACUTE ENDOCARDITIS	2.5379	9.3	12.0
127 ...	05	MED	HEART FAILURE & SHOCK	1.0130	4.2	5.4
128 ...	05	MED	DEEP VEIN THROMBOPHLEBITIS .....	.7651	5.0	5.8
129 ...	05	MED	CARDIAC ARREST, UNEXPLAINED	1.0968	1.8	2.9
130 ...	05	MED	PERIPHERAL VASCULAR DISORDERS W CC .....	.9471	4.7	5.9
131 ...	05	MED	PERIPHERAL VASCULAR DISORDERS W/O CC .....	.5898	3.6	4.4
132 ...	05	MED	ATHEROSCLEROSIS W CC .....	.6707	2.4	3.1
133 ...	05	MED	ATHEROSCLEROSIS W/O CC .....	.5663	1.9	2.4
134 ...	05	MED	HYPERTENSION .....	.5917	2.6	3.3
135 ...	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC.	.9083	3.3	4.5
136 ...	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC.	.6065	2.2	2.9
137 ...	05	MED	*CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17 ...	.8192	3.3	3.3
138 ...	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC .....	.8291	3.1	4.0
139 ...	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC ..	.5141	2.0	2.5
140 ...	05	MED	ANGINA PECTORIS .....	.5740	2.2	2.7
141 ...	05	MED	SYNCOPE & COLLAPSE W CC .....	.7219	2.9	3.7
142 ...	05	MED	SYNCOPE & COLLAPSE W/O CC .....	.5552	2.2	2.7
143 ...	05	MED	CHEST PAIN .....	.5402	1.8	2.2
144 ...	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.1668	3.8	5.4
145 ...	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC .....	.6322	2.2	2.8
146 ...	06	SURG	RECTAL RESECTION W CC	2.7430	8.9	10.2
147 ...	06	SURG	RECTAL RESECTION W/O CC	1.6221	6.0	6.6
148 ...	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	3.4347	10.1	12.1
149 ...	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.5667	6.1	6.7
150 ...	06	SURG	PERITONEAL ADHESIOLYSIS W CC	2.8523	9.1	11.2
151 ...	06	SURG	PERITONEAL ADHESIOLYSIS W/O CC	1.3427	4.8	5.9
152 ...	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES W CC	1.9462	6.8	8.2
153 ...	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.2080	4.9	5.5
154 ...	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC.	4.1475	10.1	13.3
155 ...	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC.	1.3751	3.3	4.4
156 ...	06	SURG	*STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17.	.8436	6.0	6.0
157 ...	06	SURG	ANAL & STOMAL PROCEDURES W CC	1.2388	3.9	5.5
158 ...	06	SURG	ANAL & STOMAL PROCEDURES W/O CC .....	.6638	2.1	2.6
159 ...	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC.	1.3347	3.8	5.0
160 ...	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC.	.7837	2.2	2.7
161 ...	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC ..	1.1017	2.9	4.2
162 ...	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	.6229	1.6	2.0
163 ...	06	SURG	HERNIA PROCEDURES AGE 0-17 .....	.6921	2.4	2.9
164 ...	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	2.3760	7.1	8.4
165 ...	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC ...	1.2838	4.3	4.9
166 ...	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC ...	1.4802	4.0	5.1
167 ...	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	.8937	2.3	2.7
168 ...	03	SURG	MOUTH PROCEDURES W CC	1.2141	3.2	4.7
169 ...	03	SURG	MOUTH PROCEDURES W/O CC .....	.7455	1.9	2.4
170 ...	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	2.8686	7.7	11.2
171 ...	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.1975	3.6	4.8
172 ...	06	MED	DIGESTIVE MALIGNANCY W CC	1.3485	5.1	7.0
173 ...	06	MED	DIGESTIVE MALIGNANCY W/O CC .....	.7700	2.8	3.9
174 ...	06	MED	G.I. HEMORRHAGE W CC .....	.9985	3.9	4.8
175 ...	06	MED	G.I. HEMORRHAGE W/O CC .....	.5501	2.5	2.9
176 ...	06	MED	COMPLICATED PEPTIC ULCER	1.1052	4.1	5.3
177 ...	06	MED	UNCOMPLICATED PEPTIC ULCER W CC .....	.8998	3.7	4.6
178 ...	06	MED	UNCOMPLICATED PEPTIC ULCER W/O CC .....	.6604	2.6	3.1
179 ...	06	MED	INFLAMMATORY BOWEL DISEASE	1.0576	4.7	6.0
180 ...	06	MED	G.I. OBSTRUCTION W CC .....	.9423	4.2	5.4
181 ...	06	MED	G.I. OBSTRUCTION W/O CC .....	.5304	2.8	3.4
182 ...	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC.	.7922	3.4	4.4

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
183 ...	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC.	.5717	2.4	3.0
184 ...	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17.	.5119	2.5	3.3
185 ...	03	MED	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17.	.8621	3.3	4.5
186 ...	03	MED	*DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17.	.3216	2.9	2.9
187 ...	03	MED	DENTAL EXTRACTIONS & RESTORATIONS .....	.7649	2.9	3.8
188 ...	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	1.1005	4.1	5.6
189 ...	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC .....	.5796	2.4	3.1
190 ...	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17 .....	.9884	4.1	6.0
191 ...	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES W CC	4.3914	10.5	14.2
192 ...	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.7916	5.3	6.6
193 ...	07	SURG	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC.	3.3861	10.3	12.6
194 ...	07	SURG	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC.	1.6191	5.6	6.8
195 ...	07	SURG	CHOLECYSTECTOMY W C.D.E. W CC	2.9062	8.3	9.9
196 ...	07	SURG	CHOLECYSTECTOMY W C.D.E. W/O CC	1.6593	4.9	5.7
197 ...	07	SURG	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W CC.	2.4544	7.2	8.7
198 ...	07	SURG	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W/O CC.	1.2339	3.9	4.5
199 ...	07	SURG	HEPATOBIILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.3584	7.2	9.7
200 ...	07	SURG	HEPATOBIILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY.	3.2262	7.0	10.8
201 ...	07	SURG	OTHER HEPATOBIILIARY OR PANCREAS O.R. PROCEDURES	3.4035	10.2	13.9
202 ...	07	MED	CIRRHOIS & ALCOHOLIC HEPATITIS	1.3001	4.9	6.5
203 ...	07	MED	MALIGNANCY OF HEPATOBIILIARY SYSTEM OR PANCREAS	1.3250	5.0	6.7
204 ...	07	MED	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.2018	4.5	5.9
205 ...	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC ...	1.2048	4.7	6.3
206 ...	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	.6751	3.0	3.9
207 ...	07	MED	DISORDERS OF THE BILIARY TRACT W CC	1.1032	4.0	5.2
208 ...	07	MED	DISORDERS OF THE BILIARY TRACT W/O CC .....	.6538	2.3	2.9
209 ...	08	SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY.	2.0912	4.6	5.2
210 ...	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC.	1.8152	6.0	6.9
211 ...	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC.	1.2647	4.5	4.9
212 ...	08	SURG	*HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	.8472	11.1	11.1
213 ...	08	SURG	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS.	1.7726	6.4	8.7
214 ...	08	SURG	NO LONGER VALID .....	.0000	.0	.0
215 ...	08	SURG	NO LONGER VALID .....	.0000	.0	.0
216 ...	08	SURG	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE.	2.2042	7.1	9.8
217 ...	08	SURG	WND DEBRID & SKN GRFT EXCEPT HAND, FOR MUSCSKELET & CONN TISS DIS.	2.9230	8.9	13.2
218 ...	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W CC.	1.5337	4.2	5.4
219 ...	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W/O CC.	1.0255	2.7	3.3
220 ...	08	SURG	*LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE 0-17.	.5844	5.3	5.3
221 ...	08	SURG	NO LONGER VALID .....	.0000	.0	.0
222 ...	08	SURG	NO LONGER VALID .....	.0000	.0	.0
223 ...	08	SURG	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC.	.9585	2.0	2.6
224 ...	08	SURG	SHOULDER, ELBOW OR FOREARM PROC, EXC MAJOR JOINT PROC, W/O CC.	.7997	1.7	2.1
225 ...	08	SURG	FOOT PROCEDURES	1.0851	3.3	4.7
226 ...	08	SURG	SOFT TISSUE PROCEDURES W CC	1.4770	4.3	6.3
227 ...	08	SURG	SOFT TISSUE PROCEDURES W/O CC .....	.8036	2.1	2.7
228 ...	08	SURG	MAJOR THUMB OR JOINT PROC, OR OTH HAND OR WRIST PROC W CC.	1.0664	2.4	3.6
229 ...	08	SURG	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	.7169	1.8	2.4

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
230 ...	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR.	1.2490	3.4	5.1
231 ...	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR.	1.3825	3.2	4.8
232 ...	08	SURG	ARTHROSCOPY	1.0828	2.3	3.6
233 ...	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	2.0890	5.3	7.7
234 ...	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC.	1.2661	2.7	3.6
235 ...	08	MED	FRACTURES OF FEMUR .....	.7582	3.8	5.2
236 ...	08	MED	FRACTURES OF HIP & PELVIS .....	.7218	4.0	5.0
237 ...	08	MED	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	.5681	3.0	3.7
238 ...	08	MED	OSTEOMYELITIS	1.3496	6.4	8.6
239 ...	08	MED	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY.	.9745	4.9	6.2
240 ...	08	MED	CONNECTIVE TISSUE DISORDERS W CC	1.2712	4.9	6.6
241 ...	08	MED	CONNECTIVE TISSUE DISORDERS W/O CC .....	.6177	3.1	3.9
242 ...	08	MED	SEPTIC ARTHRITIS	1.0724	5.1	6.6
243 ...	08	MED	MEDICAL BACK PROBLEMS .....	.7262	3.7	4.7
244 ...	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC .....	.7155	3.7	4.8
245 ...	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC .....	.4832	2.8	3.6
246 ...	08	MED	NON-SPECIFIC ARTHROPATHIES .....	.5570	2.9	3.6
247 ...	08	MED	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE.	.5696	2.6	3.5
248 ...	08	MED	TENDONITIS, MYOSITIS & BURSITIS .....	.7864	3.7	4.8
249 ...	08	MED	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE.	.6913	2.6	3.8
250 ...	08	MED	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC.	.6929	3.3	4.3
251 ...	08	MED	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC.	.4995	2.4	3.0
252 ...	08	MED	*FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17	.2538	1.8	1.8
253 ...	08	MED	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W CC.	.7253	3.7	4.7
254 ...	08	MED	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC.	.4413	2.6	3.2
255 ...	08	MED	*FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17.	.2956	2.9	2.9
256 ...	08	MED	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES.	.7959	3.8	5.2
257 ...	09	SURG	TOTAL MASTECTOMY FOR MALIGNANCY W CC .....	.9107	2.3	2.8
258 ...	09	SURG	TOTAL MASTECTOMY FOR MALIGNANCY W/O CC .....	.7232	1.8	2.0
259 ...	09	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC .....	.9068	1.8	2.8
260 ...	09	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC .....	.6532	1.3	1.4
261 ...	09	SURG	BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION.	.9362	1.7	2.2
262 ...	09	SURG	BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY ...	.8754	2.7	3.8
263 ...	09	SURG	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC.	2.1219	8.9	12.2
264 ...	09	SURG	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC.	1.1479	5.4	7.2
265 ...	09	SURG	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC.	1.5309	4.3	6.6
266 ...	09	SURG	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O CC.	.8707	2.4	3.3
267 ...	09	SURG	PERIANAL & PILONIDAL PROCEDURES	1.0792	3.1	5.2
268 ...	09	SURG	SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES.	1.1405	2.4	3.7
269 ...	09	SURG	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.7004	5.8	8.3
270 ...	09	SURG	OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC .....	.7670	2.3	3.3
271 ...	09	MED	SKIN ULCERS	1.0104	5.5	7.1
272 ...	09	MED	MAJOR SKIN DISORDERS W CC .....	.9994	4.8	6.3
273 ...	09	MED	MAJOR SKIN DISORDERS W/O CC .....	.6179	3.2	4.2
274 ...	09	MED	MALIGNANT BREAST DISORDERS W CC	1.2061	4.9	7.0
275 ...	09	MED	MALIGNANT BREAST DISORDERS W/O CC .....	.5301	2.4	3.4
276 ...	09	MED	NON-MALIGANT BREAST DISORDERS .....	.6899	3.6	4.6
277 ...	09	MED	CELLULITIS AGE >17 W CC .....	.8396	4.7	5.7
278 ...	09	MED	CELLULITIS AGE >17 W/O CC .....	.5522	3.6	4.3
279 ...	09	MED	*CELLULITIS AGE 0-17 .....	.6644	4.2	4.2
280 ...	09	MED	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	.6788	3.2	4.2

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
281 ...	09	MED	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC.	.4729	2.4	3.1
282 ...	09	MED	*TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17 .....	.2570	2.2	2.2
283 ...	09	MED	MINOR SKIN DISORDERS W CC .....	.6917	3.5	4.6
284 ...	09	MED	MINOR SKIN DISORDERS W/O CC .....	.4336	2.5	3.2
285 ...	10	SURG	AMPUTAT OF LOWER LIMB FOR ENDOCRINE, NUTRIT, & METABOL DISORDERS.	1.9961	7.7	10.5
286 ...	10	SURG	ADRENAL & PITUITARY PROCEDURES	2.1299	4.9	6.2
287 ...	10	SURG	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS.	1.8283	7.8	10.5
288 ...	10	SURG	O.R. PROCEDURES FOR OBESITY	2.1607	4.5	5.7
289 ...	10	SURG	PARATHYROID PROCEDURES .....	.9914	2.0	3.1
290 ...	10	SURG	THYROID PROCEDURES .....	.9193	1.8	2.4
291 ...	10	SURG	THYROGLOSSAL PROCEDURES .....	.5487	1.4	1.6
292 ...	10	SURG	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	2.4538	6.9	10.0
293 ...	10	SURG	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.2289	3.6	5.1
294 ...	10	MED	DIABETES AGE >35 .....	.7589	3.6	4.7
295 ...	10	MED	DIABETES AGE 0-35 .....	.7587	2.9	3.9
296 ...	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	.8594	4.0	5.2
297 ...	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC.	.5179	2.8	3.5
298 ...	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17 .....	.5269	2.5	3.1
299 ...	10	MED	INBORN ERRORS OF METABOLISM .....	.9632	4.0	5.6
300 ...	10	MED	ENDOCRINE DISORDERS W CC	1.0829	4.7	6.1
301 ...	10	MED	ENDOCRINE DISORDERS W/O CC .....	.6133	2.9	3.7
302 ...	11	SURG	KIDNEY TRANSPLANT	3.4241	7.9	9.4
303 ...	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM.	2.4602	7.0	8.5
304 ...	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC.	2.3407	6.4	8.9
305 ...	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC.	1.1825	3.1	3.8
306 ...	11	SURG	PROSTATECTOMY W CC	1.2489	3.7	5.5
307 ...	11	SURG	PROSTATECTOMY W/O CC .....	.6460	1.9	2.3
308 ...	11	SURG	MINOR BLADDER PROCEDURES W CC	1.6449	4.2	6.4
309 ...	11	SURG	MINOR BLADDER PROCEDURES W/O CC .....	.9339	2.0	2.5
310 ...	11	SURG	TRANSURETHRAL PROCEDURES W CC	1.1172	3.0	4.4
311 ...	11	SURG	TRANSURETHRAL PROCEDURES W/O CC .....	.6174	1.6	1.9
312 ...	11	SURG	URETHRAL PROCEDURES, AGE >17 W CC	1.0173	3.0	4.5
313 ...	11	SURG	URETHRAL PROCEDURES, AGE >17 W/O CC .....	.6444	1.7	2.1
314 ...	11	SURG	*URETHRAL PROCEDURES, AGE 0-17 .....	.4953	2.3	2.3
315 ...	11	SURG	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.0474	4.2	7.5
316 ...	11	MED	RENAL FAILURE	1.3424	4.9	6.7
317 ...	11	MED	ADMIT FOR RENAL DIALYSIS .....	.7395	2.1	3.2
318 ...	11	MED	KIDNEY & URINARY TRACT NEOPLASMS W CC	1.1313	4.3	6.0
319 ...	11	MED	KIDNEY & URINARY TRACT NEOPLASMS W/O CC .....	.6040	2.2	2.9
320 ...	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC .....	.8621	4.3	5.4
321 ...	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC .....	.5686	3.2	3.8
322 ...	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE 0-17 .....	.4939	3.3	4.1
323 ...	11	MED	URINARY STONES W CC, &/OR ESW LITHOTRIPSY .....	.7996	2.4	3.2
324 ...	11	MED	URINARY STONES W/O CC .....	.4509	1.6	1.9
325 ...	11	MED	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC.	.6460	3.0	3.9
326 ...	11	MED	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC.	.4297	2.1	2.7
327 ...	11	MED	*KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17 .....	.3543	3.1	3.1
328 ...	11	MED	URETHRAL STRICTURE AGE >17 W CC .....	.7455	2.8	3.9
329 ...	11	MED	URETHRAL STRICTURE AGE >17 W/O CC .....	.5253	1.7	2.0
330 ...	11	MED	*URETHRAL STRICTURE AGE 0-17 .....	.3191	1.6	1.6
331 ...	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	1.0221	4.1	5.6
332 ...	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC.	.5997	2.5	3.3
333 ...	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17 .....	.8247	3.5	5.0
334 ...	12	SURG	MAJOR MALE PELVIC PROCEDURES W CC	1.5591	4.2	4.9
335 ...	12	SURG	MAJOR MALE PELVIC PROCEDURES W/O CC	1.1697	3.2	3.4
336 ...	12	SURG	TRANSURETHRAL PROSTATECTOMY W CC .....	.8880	2.7	3.5
337 ...	12	SURG	TRANSURETHRAL PROSTATECTOMY W/O CC .....	.6152	1.9	2.2
338 ...	12	SURG	TESTES PROCEDURES, FOR MALIGNANCY	1.1900	3.5	5.3
339 ...	12	SURG	TESTES PROCEDURES, NON-MALIGNANCY AGE >17	1.0769	3.0	4.6

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
340 ...	12	SURG	*TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17 .....	.2835	2.4	2.4
341 ...	12	SURG	PENIS PROCEDURES	1.1709	2.1	3.2
342 ...	12	SURG	CIRCUMCISION AGE >17 .....	.8240	2.5	3.1
343 ...	12	SURG	*CIRCUMCISION AGE 0-17 .....	.1541	1.7	1.7
344 ...	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY.	1.1519	1.6	2.3
345 ...	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY.	.8800	2.6	3.8
346 ...	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC .....	.9756	4.3	5.8
347 ...	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC .....	.5922	2.4	3.4
348 ...	12	MED	BENIGN PROSTATIC HYPERTROPHY W CC .....	.7142	3.2	4.2
349 ...	12	MED	BENIGN PROSTATIC HYPERTROPHY W/O CC .....	.4380	2.0	2.6
350 ...	12	MED	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM .....	.6992	3.6	4.4
351 ...	12	MED	*STERILIZATION, MALE .....	.2364	1.3	1.3
352 ...	12	MED	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES .....	.6858	2.8	3.8
353 ...	13	SURG	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY.	1.9292	5.3	6.7
354 ...	13	SURG	UTERINE, ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC.	1.5284	4.9	5.9
355 ...	13	SURG	UTERINE, ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC.	.9278	3.1	3.3
356 ...	13	SURG	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES.	.7846	2.1	2.4
357 ...	13	SURG	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY.	2.3628	6.9	8.5
358 ...	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.2263	3.7	4.4
359 ...	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC .....	.8593	2.6	2.8
360 ...	13	SURG	VAGINA, CERVIX & VULVA PROCEDURES .....	.8860	2.4	3.0
361 ...	13	SURG	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	1.2318	2.2	3.5
362 ...	13	SURG	*ENDOSCOPIC TUBAL INTERRUPTION .....	.3022	1.4	1.4
363 ...	13	SURG	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY .....	.8136	2.5	3.5
364 ...	13	SURG	D&C, CONIZATION EXCEPT FOR MALIGNANCY .....	.7530	2.6	3.6
365 ...	13	SURG	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.8425	4.9	7.3
366 ...	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	1.2467	4.8	6.8
367 ...	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC .....	.5676	2.4	3.2
368 ...	13	MED	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	1.1205	5.0	6.7
369 ...	13	MED	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS.	.5704	2.4	3.2
370 ...	14	SURG	CESAREAN SECTION W CC	1.0631	4.4	5.7
371 ...	14	SURG	CESAREAN SECTION W/O CC .....	.7157	3.3	3.6
372 ...	14	MED	VAGINAL DELIVERY W COMPLICATING DIAGNOSES .....	.6077	2.7	3.5
373 ...	14	MED	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES .....	.4169	2.0	2.3
374 ...	14	SURG	VAGINAL DELIVERY W STERILIZATION &/OR D&C .....	.7565	2.6	3.4
375 ...	14	SURG	*VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	.6860	4.4	4.4
376 ...	14	MED	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE.	.5224	2.6	3.5
377 ...	14	SURG	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE.	.8899	2.6	3.8
378 ...	14	MED	ECTOPIC PREGNANCY .....	.7664	2.0	2.3
379 ...	14	MED	THREATENED ABORTION .....	.3959	2.0	3.1
380 ...	14	MED	ABORTION W/O D&C .....	.4843	1.8	2.2
381 ...	14	SURG	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY.	.5331	1.5	1.9
382 ...	14	MED	FALSE LABOR .....	.2127	1.3	1.5
383 ...	14	MED	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS.	.5137	2.7	3.9
384 ...	14	MED	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS.	.3161	1.6	2.3
385 ...	15	MED	*NEONATES, DIED OR TRANSFERRED TO ANOTHER ACUTE CARE FACILITY.	1.3767	1.8	1.8
386 ...	15	MED	*EXTREME IMMATURETY OR RESPIRATORY DISTRESS SYNDROME, NEONATE.	4.5400	17.9	17.9
387 ...	15	MED	*PREMATURITY W MAJOR PROBLEMS	3.1007	13.3	13.3
388 ...	15	MED	*PREMATURITY W/O MAJOR PROBLEMS	1.8709	8.6	8.6
389 ...	15	MED	*FULL TERM NEONATE W MAJOR PROBLEMS	1.8408	4.7	4.7
390 ...	15	MED	NEONATE W OTHER SIGNIFICANT PROBLEMS .....	.9471	3.0	4.0
391 ...	15	MED	*NORMAL NEWBORN .....	.1527	3.1	3.1
392 ...	16	SURG	SPLENECTOMY AGE >17	3.1739	7.1	9.5
393 ...	16	SURG	*SPLENECTOMY AGE 0-17	1.3486	9.1	9.1

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
394 ...	16	SURG	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS.	1.5969	4.1	6.7
395 ...	16	MED	RED BLOOD CELL DISORDERS AGE >17 .....	.8257	3.3	4.5
396 ...	16	MED	RED BLOOD CELL DISORDERS AGE 0-17	1.1573	2.5	3.8
397 ...	16	MED	COAGULATION DISORDERS	1.2278	3.8	5.2
398 ...	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	1.2750	4.7	6.0
399 ...	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC .....	.6881	2.8	3.6
400 ...	17	SURG	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	2.6309	5.8	9.1
401 ...	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC.	2.7198	7.8	11.2
402 ...	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC.	1.0985	2.8	4.0
403 ...	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	1.7594	5.7	8.1
404 ...	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC .....	.8480	3.1	4.2
405 ...	17	MED	*ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17 ...	1.9120	4.9	4.9
406 ...	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC.	2.8275	7.6	10.3
407 ...	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC.	1.3179	3.6	4.4
408 ...	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC.	2.0008	4.8	7.7
409 ...	17	MED	RADIOTHERAPY	1.1215	4.4	5.9
410 ...	17	MED	CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS.	.9468	2.9	3.7
411 ...	17	MED	HISTORY OF MALIGNANCY W/O ENDOSCOPY .....	.3305	2.0	2.3
412 ...	17	MED	HISTORY OF MALIGNANCY W ENDOSCOPY .....	.4841	2.0	2.7
413 ...	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC.	1.3645	5.3	7.3
414 ...	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC.	.7548	3.0	4.1
415 ...	18	SURG	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES ...	3.5925	10.4	14.3
416 ...	18	MED	SEPTICEMIA AGE >17	1.5278	5.5	7.4
417 ...	18	MED	SEPTICEMIA AGE 0-17	1.1717	3.7	6.0
418 ...	18	MED	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	1.0074	4.8	6.2
419 ...	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 W CC .....	.8709	3.7	4.8
420 ...	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC .....	.6057	3.0	3.6
421 ...	18	MED	VIRAL ILLNESS AGE >17 .....	.6796	3.1	3.9
422 ...	18	MED	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17 .....	.7854	2.8	5.1
423 ...	18	MED	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.7250	5.9	8.2
424 ...	19	SURG	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS.	2.2810	8.7	13.5
425 ...	19	MED	ACUTE ADJUSTMENT REACTION & PSYCHOLOGICAL DYSFUNCTION.	.7031	3.0	4.1
426 ...	19	MED	DEPRESSIVE NEUROSES .....	.5301	3.3	4.6
427 ...	19	MED	NEUROSES EXCEPT DEPRESSIVE .....	.5637	3.3	5.0
428 ...	19	MED	DISORDERS OF PERSONALITY & IMPULSE CONTROL .....	.7342	4.4	7.1
429 ...	19	MED	ORGANIC DISTURBANCES & MENTAL RETARDATION .....	.8530	4.9	6.7
430 ...	19	MED	PSYCHOSES .....	.7644	5.8	8.2
431 ...	19	MED	CHILDHOOD MENTAL DISORDERS .....	.6392	4.8	6.6
432 ...	19	MED	OTHER MENTAL DISORDER DIAGNOSES .....	.6546	3.2	4.8
433 ...	20	MED	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA .....	.2824	2.2	3.0
434 ...	20	MED	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W CC.	.7256	3.9	5.1
435 ...	20	MED	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W/O CC.	.4176	3.4	4.3
436 ...	20	MED	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY .....	.7433	10.3	12.9
437 ...	20	MED	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY.	.6606	7.5	9.0
438 ...	20		NO LONGER VALID .....	.0000	.0	.0
439 ...	21	SURG	SKIN GRAFTS FOR INJURIES	1.7092	5.3	8.2
440 ...	21	SURG	WOUND DEBRIDEMENTS FOR INJURIES	1.9096	5.8	8.9
441 ...	21	SURG	HAND PROCEDURES FOR INJURIES .....	.9463	2.2	3.3
442 ...	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W CC	2.3403	5.4	8.3
443 ...	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W/O CC .....	.9978	2.5	3.4
444 ...	21	MED	TRAUMATIC INJURY AGE >17 W CC .....	.7243	3.2	4.2
445 ...	21	MED	TRAUMATIC INJURY AGE >17 W/O CC .....	.5076	2.4	3.0
446 ...	21	MED	*TRAUMATIC INJURY AGE 0-17 .....	.2964	2.4	2.4
447 ...	21	MED	ALLERGIC REACTIONS AGE >17 .....	.5166	1.9	2.5
448 ...	21	MED	*ALLERGIC REACTIONS AGE 0-17 .....	.0975	2.9	2.9

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
449 ...	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC .....	.8076	2.6	3.7
450 ...	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC ....	.4406	1.6	2.0
451 ...	21	MED	*POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17 .....	.2632	2.1	2.1
452 ...	21	MED	COMPLICATIONS OF TREATMENT W CC	1.0152	3.5	5.0
453 ...	21	MED	COMPLICATIONS OF TREATMENT W/O CC .....	.4987	2.2	2.8
454 ...	21	MED	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC .....	.8593	3.2	4.6
455 ...	21	MED	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC ....	.4672	2.0	2.6
456 ...			NO LONGER VALID .....	.0000	.0	.0
457 ...			NO LONGER VALID .....	.0000	.0	.0
458 ...			NO LONGER VALID .....	.0000	.0	.0
459 ...			NO LONGER VALID .....	.0000	.0	.0
460 ...			NO LONGER VALID .....	.0000	.0	.0
461 ...	23	SURG	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES.	1.2101	2.4	4.6
462 ...	23	MED	REHABILITATION	1.2401	9.4	11.7
463 ...	23	MED	SIGNS & SYMPTOMS W CC .....	.6936	3.3	4.3
464 ...	23	MED	SIGNS & SYMPTOMS W/O CC .....	.4775	2.4	3.1
465 ...	23	MED	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS.	.5756	2.1	3.4
466 ...	23	MED	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS.	.6840	2.3	3.9
467 ...	23	MED	OTHER FACTORS INFLUENCING HEALTH STATUS .....	.5112	2.3	4.1
468 ...			EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	3.6399	9.2	13.0
469 ...			**PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS ..	.0000	.0	.0
470 ...			**UNGROUPABLE .....	.0000	.0	.0
471 ...	08	SURG	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY.	3.1957	5.0	5.7
472 ...			NO LONGER VALID .....	.0000	.0	.0
473 ...	17	SURG	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	3.5822	7.6	13.2
474 ...			NO LONGER VALID .....	.0000	.0	.0
475 ...	04	MED	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT.	3.6936	8.1	11.3
476 ...		SURG	PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	2.2547	8.4	11.7
477 ...		SURG	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	1.8204	5.4	8.1
478 ...	05	SURG	OTHER VASCULAR PROCEDURES W CC	2.3333	4.9	7.3
479 ...	05	SURG	OTHER VASCULAR PROCEDURES W/O CC	1.4326	2.8	3.6
480 ...	PRE	SURG	LIVER TRANSPLANT	9.4744	14.7	19.5
481 ...	PRE	SURG	BONE MARROW TRANSPLANT	8.6120	23.8	26.6
482 ...	PRE	SURG	TRACHEOSTOMY FOR FACE, MOUTH & NECK DIAGNOSES	3.5785	10.0	12.9
483 ...	PRE	SURG	TRACHEOSTOMY EXCEPT FOR FACE, MOUTH & NECK DIAGNOSES.	15.9677	33.7	41.2
484 ...	24	SURG	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	5.5606	8.8	13.1
485 ...	24	SURG	LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT TRA.	3.0998	7.7	9.5
486 ...	24	SURG	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA.	4.9048	8.1	12.2
487 ...	24	MED	OTHER MULTIPLE SIGNIFICANT TRAUMA	2.0604	5.6	7.8
488 ...	25	SURG	HIV W EXTENSIVE O.R. PROCEDURE	4.5574	11.5	17.0
489 ...	25	MED	HIV W MAJOR RELATED CONDITION	1.7414	6.0	8.6
490 ...	25	MED	HIV W OR W/O OTHER RELATED CONDITION .....	.9680	3.7	5.1
491 ...	08	SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY.	1.6685	2.9	3.5
492 ...	17	MED	CHEMOTHERAPY W ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS.	4.2467	10.9	16.1
493 ...	07	SURG	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W CC	1.8180	4.3	5.7
494 ...	07	SURG	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W/O CC	1.0388	2.0	2.5
495 ...	PRE	SURG	LUNG TRANSPLANT	8.6087	13.4	20.5
496 ...	08	SURG	COMBINED ANTERIOR/POSTERIOR SPINAL FUSION	5.5532	7.8	10.0
497 ...	08	SURG	SPINAL FUSION W CC	2.9441	4.9	6.2
498 ...	08	SURG	SPINAL FUSION W/O CC	1.9057	2.8	3.4
499 ...	08	SURG	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W CC	1.4572	3.6	4.8
500 ...	08	SURG	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W/O CC .....	.9805	2.2	2.7
501 ...	08	SURG	KNEE PROCEDURES W PDX OF INFECTION W CC	2.6283	8.4	10.6
502 ...	08	SURG	KNEE PROCEDURES W PDX OF INFECTION W/O CC	1.4434	4.9	6.0
503 ...	08	SURG	KNEE PROCEDURES W/O PDX OF INFECTION	1.2156	3.1	4.0
504 ...	22	SURG	EXTENSIVE 3RD DEGREE BURNS W SKIN GRAFT	12.6064	24.1	30.5

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGs), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
505 ...	22	MED	EXTENSIVE 3RD DEGREE BURNS W/O SKIN GRAFT	2.0166	2.5	4.7
506 ...	22	SURG	FULL THICKNESS BURN W SKIN GRAFT OR INHAL INJ W CC OR SIG TRAUMA.	4.4825	12.9	17.6
507 ...	22	SURG	FULL THICKNESS BURN W SKIN GRFT OR INHAL INJ W/O CC OR SIG TRAUMA.	1.8560	6.6	9.3
508 ...	22	MED	FULL THICKNESS BURN W/O SKIN GRFT OR INHAL INJ W CC OR SIG TRAUMA.	1.3302	5.1	7.3
509 ...	22	MED	FULL THICKNESS BURN W/O SKIN GRFT OR INH INJ W/O CC OR SIG TRAUMA.	.8071	4.1	6.2
510 ...	22	MED	NON-EXTENSIVE BURNS W CC OR SIGNIFICANT TRAUMA	1.4088	5.2	7.9
511 ...	22	MED	NON-EXTENSIVE BURNS W/O CC OR SIGNIFICANT TRAUMA ....	.6536	3.1	4.5

* MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM 19 STATES FOR LOW VOLUME DRGS.

** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR TRANSFER CASES.

NOTE: ARITHMETIC MEAN IS PRESENTED FOR INFORMATIONAL PURPOSES ONLY.

NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 6A.—NEW DIAGNOSIS CODES

Diagnosis code	Description	CC	MDC	DRG
007.5	Cyclosporiasis	N	6	182, 183, 184
082.40	Unspecified ehrlichiosis	N	18	423
082.41	Ehrlichiosis Chafiensis (E. Chafiensis)	N	18	423
082.49	Other ehrlichiosis	N	18	423
285.21	Anemia in end-stage renal disease	N	16	395, 396
285.22	Anemia in neoplastic disease	N	16	395, 396
285.29	Anemia of other chronic illness	N	16	395, 396
294.10	Dementia in conditions classified elsewhere without behavioral disturbance	N	19	429
294.11	Dementia in conditions classified elsewhere with behavioral disturbance	N	19	429
372.81	Conjunctivochalasis	N	2	46, 47, 48
372.89	Other disorders of conjunctiva	N	2	46, 47, 48
477.1	Allergic rhinitis, due to food	N	3	68, 69, 70
493.02	Extrinsic asthma, with acute exacerbation	Y	4	96, 97, 98
493.12	Intrinsic asthma, with acute exacerbation	Y	4	96, 97, 98
493.22	Chronic obstructive asthma, with acute exacerbation	Y	4	88
493.92	Unspecified asthma, with acute exacerbation	Y	4	96, 97, 98
494.0	Bronchiectasis without acute exacerbation	N	4	88
494.1	Bronchiectasis with acute exacerbation	Y	4	88
558.3	Allergic gastroenteritis and colitis	N	6	182, 183, 184
600.0	Hypertrophy (benign) of prostate	N	12	348, 349
600.1	Nodular prostate	N	12	348, 349
600.2	Benign localized hyperplasia of prostate	N	12	348, 349
600.3	Cyst of prostate	N	12	348, 349
600.9	Unspecified hyperplasia of prostate	N	12	348, 349
645.10	Post term pregnancy, unspecified as to episode of care or not applicable	N	14	469
645.11	Post term pregnancy, delivered, with or without mention of antepartum condition.	N	14	370, 371, 372, 373, 374, 375
645.13	Post term pregnancy, antepartum condition or complication	N	14	383, 384
645.20	Prolonged pregnancy, unspecified as to episode of care or not applicable	N	14	469
645.21	Prolonged pregnancy, delivered, with or without mention of antepartum condition.	N	14	370, 371, 372, 373, 374, 375
645.23	Prolonged pregnancy, antepartum condition or complication	N	14	383, 384
692.75	Disseminated superficial actinic porokeratosis (DSAP)	N	9	283, 284
707.10	Unspecified ulcer of lower limb	Y	9	263, 264, 271
707.11	Ulcer of thigh	Y	9	263, 264, 271
707.12	Ulcer of calf	Y	9	263, 264, 271
707.13	Ulcer of ankle	Y	9	263, 264, 271
707.14	Ulcer of heel and midfoot	Y	9	263, 264, 271
707.15	Ulcer of other part of foot	Y	9	263, 264, 271
707.19	Ulcer of other part of lower limb	Y	9	263, 264, 271
727.83	Plica syndrome	N	8	248
781.91	Loss of height	N	1	34, 35
781.92	Abnormal posture	N	1	34, 35
781.99	Other symptoms involving nervous and musculoskeletal systems	N	1	34, 35
783.21	Loss of weight	N	10	296, 297, 298
783.22	Underweight	N	10	296, 297, 298
783.40	Unspecified lack of normal physiological development	N	10	296, 297, 298

TABLE 6A.—NEW DIAGNOSIS CODES—Continued

Diagnosis code	Description	CC	MDC	DRG
783.41	Failure to thrive	N	10	296, 297, 298
783.42	Delayed milestones	N	10	296, 297, 298
783.43	Short stature	N	10	296, 297, 298
783.7	Adult failure to thrive	N	10	296, 297, 298
790.01	Precipitous drop in hematocrit	N	16	395, 396
790.09	Other abnormality of red blood cells	N	16	395, 396
792.5	Cloudy (hemodialysis) (peritoneal) dialysis effluent	N	23	463, 464
995.7	Other adverse food reactions, not elsewhere classified	N	21	454, 455
996.87	Complications of transplanted organ, intestine	Y	21	452, 453
V15.01	Allergy to peanuts	N	23	467
V15.02	Allergy to milk products	N	23	467
V15.03	Allergy to eggs	N	23	467
V15.04	Allergy to seafood	N	23	467
V15.05	Allergy to other foods	N	23	467
V15.06	Allergy to insects	N	23	467
V15.07	Allergy to latex	N	23	467
V15.08	Allergy to radiographic dye	N	23	467
V15.09	Other allergy, other than to medicinal agents	N	23	467
V21.30	Unspecified low birth weight status	N	23	467
V21.31	Low birth weight status, less than 500 grams	N	23	467
V21.32	Low birth weight status, 500–999 grams	N	23	467
V21.33	Low birth weight status, 1000–1499 grams	N	23	467
V21.34	Low birth weight status, 1500–1999 grams	N	23	467
V21.35	Low birth weight status, 2000–2500 grams	N	23	467
V26.21	Fertility testing	N	23	467
V26.22	Aftercare following sterilization reversal	N	23	467
V26.29	Other investigation and testing	N	23	467
V42.84	Organ or tissue replaced by transplant, intestines	Y	23	467
V45.74	Acquired absence of organ, other parts of urinary tract	N	11	331, 332, 333
V45.75	Acquired absence of organ, stomach	N	23	467
V45.76	Acquired absence of organ, lung	N	4	101, 102
V45.77	Acquired absence of organ, genital organs	N	12	352
V45.78	Acquired absence of organ, eye	N	13	358, 359, 369
V45.79	Other acquired absence of organ	N	2	46, 47, 48
V49.81	Postmenopausal status (age-related) (natural)	N	23	467
V49.89	Other specified conditions influencing health status	N	23	467
V56.31	Encounter for adequacy testing for hemodialysis	N	11	317
V56.32	Encounter for adequacy testing for peritoneal dialysis	N	11	317
V58.83	Encounter for therapeutic drug monitoring	N	23	465, 466
V67.00	Follow-up examination, following unspecified surgery	N	23	465, 466
V67.01	Following surgery, follow-up vaginal pap smear	N	23	465, 466
V67.09	Follow-up examination, following other surgery	N	23	465, 466
V71.81	Observation for suspected abuse and neglect	N	23	467
V71.89	Observation for other specified suspected conditions	N	23	467
V76.46	Special screening for malignant neoplasms, ovary	N	23	467
V76.47	Special screening for malignant neoplasms, Vagina	N	23	467
V76.50	Special screening for malignant neoplasms, unspecified intestine	N	23	467
V76.51	Special screening for malignant neoplasms, colon	N	23	467
V76.52	Special screening for malignant neoplasms, small intestine	N	23	467
V76.81	Special screening for malignant neoplasms, nervous system	N	23	467
V76.89	Special screening for other malignant neoplasm	N	23	467
V77.91	Screening for lipid disorders	N	23	467
V77.99	Other and unspecified endocrine, nutritional, metabolic, and immunity disorders.	N	23	467
V82.81	Special screening for osteoporosis	N	23	467
V82.89	Special screening for other specified conditions	N	23	467

TABLE 6B.—NEW PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
39.71	Endovascular implantation of graft in abdominal aorta	Y	5	110, 111
			11	315
			21	442, 443
			24	486

TABLE 6B.—NEW PROCEDURE CODES—Continued

Procedure code	Description	OR	MDC	DRG
39.79	Other endovascular graft repair of aneurysm	Y	1 5 11 21 24	1, 2, 3 110, 111 315 442, 443 486
41.07	Autologous hematopoietic stem cell transplant with purging	Y	PRE	481
41.08	Allogeneic hematopoietic stem cell transplant with purging	Y	PRE	481
41.09	Autologous bone marrow transplant with purging	Y	PRE	481
46.97	Transplant of intestine	Y	6 7 17 21 24	148, 149 201 400, 406, 407 442, 443 486
60.96	Transurethral destruction of prostate tissue by microwave thermotherapy	Y	11 12 UNR	306, 307 1336, 337 476
60.97	Other transurethral destruction of prostate tissue by other thermotherapy	Y	11 12 UNR	306, 307 336, 337 476
99.75	Administration of neuroprotective agent	N		

TABLE 6C.—INVALID DIAGNOSIS CODES

Diagnosis code	Description	CC	MDC	DRG
294.1	Dementia in conditions classified elsewhere	N	19	429
372.8	Other disorders of conjunctiva	N	2	46, 47, 48
494	Bronchiectasis	Y	4	88
600	Hyperplasia of prostate	N	12	348, 349
645.00	Prolonged pregnancy, unspecified as to episode of care or not applicable	N	14	469
645.01	Prolonged pregnancy, delivered, with or without mention of antepartum condition.	N	14	370, 371, 372, 373, 374, 375
645.03	Prolonged pregnancy, antepartum condition or complication	N	14	383, 384
707.1	Ulcer of lower limb, except decubitus	Y	9	263, 264, 271
781.9	Other symptoms involving nervous and musculoskeletal systems	N	1	34, 35
783.2	Abnormal loss of weight	N	10	296, 297, 298
783.4	Lack of expected normal physiological development	N	10	296, 297, 298
790.0	Abnormality of red blood cells	N	16	395, 396
V15.0	Allergy, other than to medicinal agents	N	23	467
V26.2	Investigation and testing	N	23	467
V49.8	Other specified problems influencing health status	N	23	467
V67.0	Follow-up examination following surgery	N	23	465, 466
V71.8	Observation for other specified suspected conditions	N	23	467
V76.8	Special screening for malignant neoplasms, other neoplasm	N	23	467
V77.9	Other and unspecified endocrine, nutritional, metabolic, and immunity disorders.	N	23	467
V82.8	Special screening for other specified conditions	N	23	467

TABLE 6D.—REVISED DIAGNOSIS CODE TITLES

Diagnosis code	Description	CC	MDC	DRG
564.1	Irritable bowel syndrome	N	6	182 183 184
V26.3	Genetic counseling and testing	N	23	467
V76.49	Special screening for malignant, other sites	N	23	467

TABLE 6E.—REVISED PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
41.01	Autologous bone marrow transplant without purging	Y	PRE	481
41.04	Autologous hematopoietic stem cell transplant without purging	Y	PRE	481
41.05	Allogeneic hematopoietic stem cell transplant without purging	Y	PRE	481

TABLE 6E.—REVISED PROCEDURE CODES—Continued

Procedure code	Description	OR	MDC	DRG
86.59	Closure of skin and subcutaneous tissue other sites	N		

TABLE 6F.—ADDITIONS TO THE CC EXCLUSIONS LIST

[CCs that are added to the list are in Table 6F—Additions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.]

*0075	2818	70713	49312	01170	4870	01152	4829
00841	2824	70714	49322	01171	4950	01153	4830
00842	28260	70715	49392	01172	4951	01154	4831
00843	28261	70719	*49391	01173	4952	01155	4838
00844	28262	*4871	49302	01174	4953	01156	4841
00845	28263	4941	49312	01175	4954	01160	4843
00846	28269	*49300	49322	01176	4955	01161	4845
00847	2830	49302	49392	01180	4956	01162	4846
00849	28310	49312	*49392	01181	4957	01163	4847
*01790	28311	49322	49301	01182	4958	01164	4848
4941	28319	49392	49302	01183	4959	01165	485
*01791	2832	*49301	49311	01184	496	01166	486
4941	2839	49302	49312	01185	5060	01170	4870
*01792	2840	49312	49320	01186	5061	01171	4941
4941	2848	49322	49321	01190	5070	01172	4950
*01793	2849	49392	49322	01191	5071	01173	4951
4941	2850	*49302	49391	01192	5078	01174	4952
*01794	2851	49301	49392	01193	5080	01175	4953
4941	*29410	49302	*4940	01194	5081	01176	4954
*01795	2910	49311	01100	01195	515	01180	4955
4941	2911	49312	01101	01196	5160	01181	4956
*01796	2912	49320	01102	01200	5161	01182	4957
4941	2913	49321	01103	01201	5162	01183	4958
*28521	2914	49322	01104	01202	5163	01184	4959
2800	29181	49391	01105	01203	5168	01185	496
2814	29189	49392	01106	01204	5169	01186	5060
2818	2919	*49310	01110	01205	5171	01190	5061
2824	2920	49302	01111	01206	5172	01191	5070
28260	29211	49312	01112	01210	5178	01192	5071
28261	29212	49322	01113	01211	74861	01193	5078
28262	2922	49392	01114	01212	*4941	01194	5080
28263	29281	*49311	01115	01213	01100	01195	5081
28269	29282	49302	01116	01214	01101	01196	515
2830	29283	49312	01120	01215	01102	01200	5160
28310	29284	49322	01121	01216	01103	01201	5161
28311	29289	49392	01122	0310	01104	01202	5162
28319	2929	*49312	01123	11505	01105	01203	5163
2832	29381	49301	01124	11515	01106	01204	5168
2839	29382	49302	01125	1304	01110	01205	5169
2840	29383	49311	01126	1363	01111	01206	5171
2848	29384	49312	01130	481	01112	01210	5172
2849	*29411	49320	01131	4820	01113	01211	5178
2850	2910	49321	01132	4821	01114	01212	74861
2851	2911	49322	01133	4822	01115	01213	*496
*28522	2912	49391	01134	48230	01116	01214	4941
2800	2913	49392	01135	48231	01120	01215	*5061
2814	2914	*49320	01136	48232	01121	01216	4941
2818	29181	49302	01140	48239	01122	0310	*5064
2824	29189	49312	01141	48240	01123	11505	4941
28260	2919	49322	01142	48241	01124	11515	*5069
28261	2920	49392	01143	48249	01125	1304	4941
28262	29211	*49321	01144	48281	01126	1363	*5178
28263	29212	49302	01145	48282	01130	481	49302
28269	2922	49312	01146	48283	01131	4820	49312
2830	29281	49322	01150	48284	01132	4821	49322
28310	29282	49392	01151	48289	01133	4822	49392
28311	29283	*49322	01152	4829	01134	48230	*51889
28319	29284	49301	01153	4830	01135	48231	49302
2832	29289	49302	01154	4831	01136	48232	49312
2839	2929	49311	01155	4838	01140	48239	49322
2840	29381	49312	01156	4841	01141	48240	49392
2848	29382	49320	01160	4843	01142	48241	*5198
2849	29383	49321	01161	4845	01143	48249	49302
2850	29384	49322	01162	4846	01144	48281	49312
2851	*44023	49391	01163	4847	01145	48282	49322
*28529	70710	49392	01164	4848	01146	48283	49392
2800	70711	*49390	01165	485	01150	48284	*5199
2814	70712	49302	01166	486	01151	48289	49302
49312	*70712	V421					
49322	70710	V426					
49392	70711	V427					
*5583	70712	V4281					

TABLE 6F.—ADDITIONS TO THE CC EXCLUSIONS LIST—Continued

[CCs that are added to the list are in Table 6F—Additions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.]

00841	70713	V4282
00842	70714	V4283
00843	70715	V4289
00844	70719	V432
00845	*70713	*99689
00846	70710	V4284
00847	70711	*99791
00849	70712	99687
*6000	70713	*99799
5960	70714	99687
5996	70715	*V4284
6010	70719	V4284
6012	*70714	*V4289
6013	70710	V4284
6021	70711	*V429
78820	70712	V4284
78829	70713	
*6001	70714	
5960	70715	
5996	70719	
6010	*70715	
6012	70710	
6013	70711	
6021	70712	
78820	70713	
78829	70714	
*6002	70715	
5960	70719	
5996	*70719	
6010	70710	
6012	70711	
6013	70712	
6021	70713	
78820	70714	
78829	70715	
*6003	70719	
5960	*7078	
5996	70710	
6010	70711	
6012	70712	
6013	70713	
6021	70714	
78820	70715	
78829	70719	
*6009	*7079	
5960	70710	
5996	70711	
6010	70712	
6012	70713	
6013	70714	
6021	70715	
78820	70719	
78829	*7098	
*70710	70710	
70710	70711	
70711	70712	
70712	70713	
70713	70714	
70714	70715	
70715	70719	
70719	*74861	
*70711	4941	
70710	*99680	
70711	99687	
70712	V4284	
70713	*99687	
70714	99680	
70715	99687	
70719	V420	

TABLE 6G.—DELETIONS TO THE CC EXCLUSIONS LIST

[CCs that are deleted from the list are in Table 6G—Deletions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.]

*01790	01135	48231	6021
494	01136	48232	78820
*01791	01140	48239	78829
494	01141	48240	*7071
*01792	01142	48241	7071
494	01143	48249	*7078
*01793	01144	48281	7071
494	01145	48282	*7079
*01794	01146	48283	7071
494	01150	48284	*7098
*01795	01151	48289	7071
494	01152	4829	*74861
*01796	01153	4830	494
494	01154	4831	
*2941	01155	4838	
2910	01156	4841	
2911	01160	4843	
2912	01161	4845	
2913	01162	4846	
2914	01163	4847	
29181	01164	4848	
29189	01165	485	
2919	01166	486	

TABLE 6G.—DELETIONS TO THE CC EXCLUSIONS LIST—Continued

[CCs that are deleted from the list are in Table 6G—Deletions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.]

2920	01170	4870	
29211	01171	494	
29212	01172	4950	
2922	01173	4951	
29281	01174	4952	
29282	01175	4953	
29283	01176	4954	
29284	01180	4955	
29289	01181	4956	
2929	01182	4957	
29381	01183	4958	
29382	01184	4959	
29383	01185	496	
29384	01186	5060	
*44023	01190	5061	
7071	01191	5070	
*4871	01192	5071	
494	01193	5078	
*494	01194	5080	
01100	01195	5081	
01101	01196	515	
01102	01200	5160	
01103	01201	5161	

TABLE 6G.—DELETIONS TO THE CC EXCLUSIONS LIST—Continued

[CCs that are deleted from the list are in Table 6G—Deletions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.]

01104	01202	5162	
01105	01203	5163	
01106	01204	5168	
01110	01205	5169	
01111	01206	5171	
01112	01210	5172	
01113	01211	5178	
01114	01212	74861	
01115	01213	*496	
01116	01214	494	
01120	01215	*5061	
01121	01216	494	
01122	0310	*5064	
01123	11505	494	
01124	11515	*5069	
01125	1304	494	
01126	1363	*600	
01130	481	5960	
01131	4820	5996	
01132	4821	6010	
01133	4822	6012	
01134	48230	6013	

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY [FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
1	35352	9.1033	2	3	6	12	19
2	7158	9.6855	3	5	7	12	19
4	6095	7.3505	1	2	5	9	16
5	95604	3.2875	1	1	2	4	7
6	341	3.2405	1	1	2	4	7
7	12148	10.2934	2	4	7	13	21
8	3705	3.0103	1	1	2	4	7
9	1657	6.4484	1	3	5	8	12
10	18437	6.5993	2	3	5	8	13
11	3331	4.1654	1	2	3	5	8
12	45110	6.0509	2	3	4	7	11
13	6256	5.0973	2	3	4	6	9
14	331649	5.9608	2	3	5	7	11
15	140366	3.6304	1	2	3	5	7
16	11170	6.1346	2	3	5	7	12
17	3453	3.3687	1	2	3	4	6
18	26134	5.5426	2	3	4	7	10
19	8011	3.7410	1	2	3	5	7
20	5780	10.2894	3	5	8	13	20
21	1368	6.8575	2	3	5	9	13
22	2519	4.9389	2	2	4	6	9
23	8375	4.2302	1	2	3	5	8
24	52871	5.0135	1	2	4	6	10
25	24604	3.3081	1	2	3	4	6
26	20	3.2000	1	1	2	3	7
27	3645	5.1084	1	1	3	6	12
28	10833	6.2260	1	3	5	8	13
29	3985	3.7064	1	2	3	5	7
31	3301	4.2293	1	2	3	5	8
32	1585	2.7356	1	1	2	3	5
34	19657	5.1974	1	2	4	6	10
35	5225	3.4195	1	2	3	4	6
36	4249	1.3641	1	1	1	1	2
37	1494	3.6921	1	1	3	5	8
38	115	2.5304	1	1	1	3	5
39	1160	1.9112	1	1	1	2	4
40	1765	3.5955	1	1	2	4	8
41	1	4.0000	4	4	4	4	4
42	2723	2.2277	1	1	1	3	5

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
43	86	3.3605	1	2	3	4	7
44	1237	4.9871	2	3	4	6	9
45	2509	3.2790	1	2	3	4	6
46	2971	4.5796	1	2	4	6	9
47	1180	3.3034	1	1	3	4	6
49	2245	4.9675	1	2	4	6	9
50	2587	1.9849	1	1	1	2	3
51	264	2.5303	1	1	1	3	6
52	198	2.1414	1	1	1	2	5
53	2594	3.6727	1	1	2	4	8
54	4	1.5000	1	1	1	1	3
55	1573	2.8843	1	1	1	3	6
56	533	3.0507	1	1	2	4	6
57	587	3.9642	1	1	2	4	8
59	115	2.5304	1	1	2	3	5
60	2	1.0000	1	1	1	1	1
61	212	4.8302	1	1	2	6	13
62	2	3.5000	2	2	5	5	5
63	3207	4.2728	1	2	3	5	9
64	3189	6.5124	1	2	4	8	14
65	31923	2.8964	1	1	2	4	5
66	6984	3.1714	1	1	3	4	6
67	482	3.5270	1	2	3	4	7
68	13482	4.1567	1	2	3	5	8
69	4254	3.2795	1	2	3	4	6
70	33	2.9091	1	2	3	4	5
71	105	3.8667	1	2	3	6	7
72	824	3.2961	1	2	3	4	6
73	6461	4.3439	1	2	3	5	8
75	39513	10.0058	3	5	8	12	20
76	40171	11.2717	3	5	9	14	21
77	2385	4.8776	1	2	4	7	10
78	30651	6.9464	3	5	6	8	11
79	183896	8.4642	3	4	7	11	16
80	8331	5.6766	2	3	5	7	10
81	5	9.2000	2	2	10	10	19
82	64149	6.9422	2	3	5	9	14
83	6603	5.5326	2	3	4	7	10
84	1549	3.3719	1	2	3	4	6
85	20158	6.3636	2	3	5	8	12
86	1940	3.7845	1	2	3	5	7
87	63294	6.2499	1	3	5	8	12
88	405792	5.2217	2	3	4	7	9
89	526310	6.0247	2	3	5	7	11
90	51516	4.2278	2	3	4	5	7
91	49	3.3469	1	2	3	4	5
92	13842	6.2457	2	3	5	8	12
93	1557	3.9878	1	2	3	5	7
94	12470	6.3005	2	3	5	8	12
95	1589	3.6916	1	2	3	5	7
96	65180	4.7269	2	3	4	6	8
97	31758	3.6849	1	2	3	5	7
98	20	4.7000	1	1	3	6	7
99	18316	3.2260	1	1	2	4	6
100	7279	2.2124	1	1	2	3	4
101	19889	4.4315	1	2	3	6	8
102	5030	2.7356	1	1	2	3	5
103	461	49.5466	9	12	30	68	118
104	33364	11.6306	3	6	10	15	22
105	29546	9.2855	4	5	7	11	17
106	3820	11.2010	5	7	9	13	19
107	91043	10.3489	5	7	9	12	17
108	5267	10.5590	3	5	8	13	20
109	61942	7.7332	4	5	6	9	13
110	55263	9.4599	2	5	8	11	18
111	7172	5.4762	2	4	5	7	8
112	61239	3.7597	1	1	3	5	8
113	44445	12.0916	3	6	9	15	24
114	8543	8.2800	2	4	7	10	16
115	14129	8.4099	1	4	7	11	16

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
 [FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
116	309840	3.7279	1	1	3	5	8
117	3419	4.0433	1	1	2	5	9
118	6687	2.8065	1	1	1	3	6
119	1461	4.8542	1	1	3	6	12
120	36980	8.1173	1	2	5	10	18
121	164131	6.4386	2	3	5	8	12
122	81181	3.8293	1	2	3	5	7
123	41102	4.5805	1	1	3	6	11
124	135568	4.3735	1	2	3	6	8
125	75438	2.7854	1	1	2	4	5
126	5171	11.7343	3	6	9	14	23
127	683849	5.3364	2	3	4	7	10
128	11601	5.8042	3	4	5	7	9
129	4224	2.8570	1	1	1	3	7
130	89606	5.8064	2	3	5	7	10
131	27035	4.3769	1	3	4	6	7
132	153726	3.0483	1	1	2	4	6
133	7633	2.3958	1	1	2	3	4
134	33046	3.2976	1	2	3	4	6
135	7144	4.4709	1	2	3	5	9
136	1170	2.9103	1	1	2	4	6
138	192439	4.0078	1	2	3	5	8
139	77691	2.5071	1	1	2	3	5
140	76921	2.7133	1	1	2	3	5
141	86225	3.7087	1	2	3	5	7
142	42891	2.6783	1	1	2	3	5
143	186941	2.1669	1	1	2	3	4
144	79553	5.3212	1	2	4	7	11
145	6948	2.8094	1	1	2	4	5
146	11289	10.1758	5	7	9	12	17
147	2427	6.6135	3	5	6	8	10
148	135012	12.1210	5	7	10	14	22
149	17660	6.6535	4	5	6	8	10
150	20425	11.1526	4	7	9	14	20
151	4513	5.9280	2	3	5	8	10
152	4470	8.1953	3	5	7	10	14
153	1931	5.4604	3	4	5	7	8
154	29554	13.2574	4	7	10	16	25
155	6109	4.3495	1	2	3	6	8
156	2	28.0000	28	28	28	28	28
157	8234	5.4966	1	2	4	7	11
158	4427	2.6286	1	1	2	3	5
159	16536	5.0206	1	2	4	6	10
160	11065	2.7237	1	1	2	4	5
161	11551	4.1674	1	2	3	5	9
162	7067	1.9544	1	1	1	2	4
163	10	2.9000	1	1	3	3	6
164	4748	8.3981	4	5	7	10	14
165	1953	4.8561	2	3	5	6	8
166	3332	5.0789	2	3	4	6	9
167	2935	2.7097	1	2	2	3	5
168	1530	4.6556	1	2	3	6	9
169	810	2.4247	1	1	2	3	5
170	11351	11.1690	2	5	8	14	23
171	1132	4.8012	1	2	4	6	9
172	30708	6.9805	2	3	5	9	14
173	2516	3.8557	1	1	3	5	8
174	237582	4.8236	2	3	4	6	9
175	28223	2.9429	1	2	3	4	5
176	15708	5.2687	2	3	4	6	10
177	9539	4.5524	2	2	4	6	8
178	3601	3.1427	1	2	3	4	6
179	12290	6.0134	2	3	5	7	11
180	85528	5.3979	2	3	4	7	10
181	24458	3.4102	1	2	3	4	6
182	234044	4.3621	1	2	3	5	8
183	79010	2.9636	1	1	2	4	6
184	99	3.2525	1	2	3	4	5
185	4361	4.5015	1	2	3	6	9
186	2	4.5000	2	2	7	7	7

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
187	747	3.8220	1	2	3	5	8
188	75016	5.5813	1	2	4	7	11
189	11186	3.1402	1	1	2	4	6
190	70	5.9857	2	3	4	6	11
191	9437	14.1379	4	7	10	18	28
192	984	6.5996	2	4	6	8	11
193	5705	12.5550	5	7	10	15	23
194	763	6.7720	2	4	6	8	12
195	4898	9.8944	4	6	8	12	17
196	1197	5.6942	2	4	5	7	9
197	20367	8.7332	3	5	7	11	16
198	6123	4.5065	2	3	4	6	8
199	1745	9.6682	3	4	8	13	19
200	1084	10.7694	2	4	8	14	22
201	1483	13.8206	3	6	11	18	27
202	25781	6.5065	2	3	5	8	13
203	29166	6.6874	2	3	5	9	13
204	55210	5.8583	2	3	4	7	11
205	22715	6.2907	2	3	5	8	12
206	1792	3.8337	1	2	3	5	7
207	30992	5.1140	1	2	4	6	10
208	9690	2.8994	1	1	2	4	6
209	343780	5.1256	3	3	4	6	8
210	127326	6.8134	3	4	6	8	11
211	31422	4.9172	3	4	4	6	7
212	7	3.0000	2	2	2	3	4
213	8933	8.7283	2	4	7	11	17
216	5871	9.7808	2	4	7	12	20
217	17768	13.1592	3	5	9	16	28
218	21587	5.3674	2	3	4	6	10
219	19362	3.2518	1	2	3	4	5
220	3	2.3333	1	1	2	4	4
223	17578	2.5862	1	1	2	3	5
224	8041	2.0520	1	1	2	3	4
225	5639	4.7074	1	2	3	6	10
226	5033	6.3012	1	2	4	8	13
227	4462	2.6627	1	1	2	3	5
228	2477	3.5620	1	1	2	4	8
229	1092	2.4011	1	1	2	3	5
230	2116	5.0865	1	2	3	6	10
231	10738	4.8361	1	2	3	6	10
232	571	3.5692	1	1	2	4	9
233	4608	7.7129	2	3	6	10	16
234	2701	3.5724	1	2	3	4	7
235	5378	5.1264	1	2	4	6	10
236	38845	4.8570	1	3	4	6	9
237	1587	3.7284	1	2	3	5	7
238	7674	8.4730	3	4	6	10	16
239	51992	6.2172	2	3	5	8	12
240	11950	6.5921	2	3	5	8	13
241	2981	3.9410	1	2	3	5	7
242	2498	6.5524	2	3	5	8	12
243	85571	4.7006	1	3	4	6	9
244	11962	4.7800	1	2	4	6	9
245	4967	3.7246	1	2	3	4	7
246	1344	3.6384	1	2	3	4	7
247	15158	3.4474	1	1	3	4	7
248	9412	4.7385	1	2	4	6	9
249	10792	3.7782	1	1	3	5	8
250	3543	4.2484	1	2	3	5	8
251	2382	2.9866	1	1	3	4	5
252	1	2.0000	2	2	2	2	2
253	19064	4.6962	1	3	4	6	9
254	10447	3.2049	1	2	3	4	6
255	1	1.0000	1	1	1	1	1
256	5875	5.1384	1	2	4	6	10
257	16895	2.8284	1	2	2	3	5
258	15820	2.0011	1	1	2	2	3
259	3743	2.7919	1	1	1	3	6
260	4815	1.4332	1	1	1	2	2

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
 [FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
261	1766	2.1682	1	1	1	2	4
262	686	3.7886	1	1	3	5	7
263	24706	11.6014	3	5	8	14	23
264	3910	6.9575	2	3	5	8	14
265	3905	6.6197	1	2	4	8	14
266	2557	3.3136	1	1	2	4	7
267	257	5.2140	1	1	3	6	12
268	915	3.6907	1	1	2	4	8
269	8941	8.2543	2	3	6	10	16
270	2767	3.2754	1	1	2	4	7
271	21233	7.1222	2	4	6	8	13
272	5503	6.3353	2	3	5	8	12
273	1346	4.2132	1	2	3	5	8
274	2381	6.9475	2	3	5	9	14
275	229	3.3886	1	1	2	4	7
276	1089	4.6272	1	2	4	6	9
277	84246	5.7203	2	3	5	7	10
278	28748	4.3341	2	3	4	5	7
279	5	5.4000	2	2	5	5	11
280	15232	4.1962	1	2	3	5	8
281	6791	3.0711	1	1	3	4	6
283	5370	4.5551	1	2	3	6	9
284	1858	3.1975	1	1	2	4	6
285	6174	10.4691	3	5	8	13	20
286	2009	6.2225	2	3	5	7	11
287	6029	10.5382	3	5	8	13	20
288	2316	5.6973	2	3	4	6	9
289	4349	3.1474	1	1	2	3	7
290	8262	2.4317	1	1	2	2	4
291	58	1.6379	1	1	1	2	2
292	4999	9.9930	2	4	7	13	21
293	326	5.0644	1	2	4	7	10
294	84584	4.7150	1	2	4	6	9
295	3506	3.8811	1	2	3	5	7
296	233633	5.2417	2	3	4	6	10
297	41115	3.4726	1	2	3	4	6
298	112	3.1429	1	2	2	4	6
299	1067	5.6148	1	2	4	6	11
300	15674	6.1301	2	3	5	8	12
301	3130	3.7089	1	2	3	5	7
302	7834	9.3957	4	5	7	11	16
303	19520	8.4840	4	5	7	10	15
304	12114	8.9145	2	4	7	11	18
305	2886	3.8486	1	2	3	5	7
306	7971	5.4874	1	2	3	7	12
307	2231	2.2761	1	1	2	3	4
308	7729	6.3946	1	2	4	8	14
309	3973	2.4896	1	1	2	3	5
310	23848	4.3651	1	2	3	5	9
311	8261	1.8895	1	1	1	2	3
312	1576	4.5184	1	1	3	6	10
313	633	2.1137	1	1	1	3	4
314	2	1.0000	1	1	1	1	1
315	28842	7.5038	1	1	5	10	17
316	97171	6.6773	2	3	5	8	13
317	1237	3.1997	1	1	2	3	6
318	5569	6.0084	1	3	4	7	12
319	468	2.8782	1	1	2	4	6
320	182681	5.3860	2	3	4	7	10
321	28362	3.8457	1	2	3	5	7
322	72	4.1111	1	2	3	5	7
323	16489	3.2195	1	1	2	4	7
324	7423	1.8792	1	1	1	2	3
325	7844	3.8986	1	2	3	5	7
326	2434	2.6619	1	1	2	3	5
327	8	8.2500	1	1	1	4	13
328	724	3.8909	1	1	3	5	8
329	106	2.0472	1	1	1	3	4
331	43627	5.5325	1	2	4	7	11
332	4854	3.2701	1	1	2	4	7

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
333	306	5.0163	1	2	3	6	10
334	12207	4.8955	2	3	4	6	8
335	11491	3.4115	2	3	3	4	5
336	40724	3.5245	1	2	3	4	7
337	30688	2.1779	1	1	2	3	3
338	1647	5.3024	1	2	3	7	12
339	1514	4.5594	1	1	3	6	10
340	1	1.0000	1	1	1	1	1
341	3866	3.2219	1	1	2	3	7
342	778	3.1221	1	2	2	4	6
344	3962	2.2532	1	1	1	2	4
345	1285	3.7681	1	1	2	5	8
346	4659	5.8032	1	3	4	7	11
347	399	3.3734	1	1	2	4	7
348	3125	4.2074	1	2	3	5	8
349	595	2.6101	1	1	2	3	5
350	6202	4.3955	2	2	4	5	8
352	651	3.8218	1	2	3	5	8
353	2646	6.7154	3	3	5	8	13
354	8252	5.8838	3	3	4	7	10
355	5732	3.3217	2	3	3	4	5
356	26097	2.4163	1	1	2	3	4
357	5799	8.5049	3	4	7	10	16
358	21776	4.3958	2	3	3	5	8
359	29307	2.8120	2	2	3	3	4
360	16206	2.9646	1	2	2	3	5
361	427	3.4637	1	1	2	4	7
362	2	2.0000	1	1	3	3	3
363	3100	3.4668	1	2	2	3	7
364	1626	3.5689	1	1	2	5	7
365	1936	7.2758	1	3	5	9	16
366	4266	6.7203	1	3	5	8	14
367	478	3.1695	1	1	2	4	7
368	2889	6.7196	2	3	5	8	13
369	2858	3.1963	1	1	2	4	6
370	1175	5.7174	3	3	4	5	9
371	1232	3.6445	2	3	3	4	5
372	942	3.4809	1	2	2	3	5
373	3992	2.2856	1	2	2	2	3
374	138	3.3696	1	2	2	3	5
375	6	2.6667	2	2	2	3	3
376	260	3.4577	1	2	2	4	7
377	54	3.8333	1	1	2	5	8
378	156	2.3333	1	1	2	3	4
379	370	3.0676	1	1	2	3	6
380	77	2.1688	1	1	2	2	4
381	179	1.9441	1	1	1	2	3
382	43	1.4884	1	1	1	2	2
383	1582	3.8957	1	1	3	5	8
384	128	2.2969	1	1	1	2	4
389	8	5.8750	3	3	4	8	10
390	20	3.9500	1	1	3	6	8
392	2524	9.4624	3	4	7	12	19
393	2	7.5000	7	7	8	8	8
394	1742	6.6791	1	2	4	8	15
395	81014	4.5335	1	2	3	6	9
396	20	3.8000	1	1	2	5	7
397	18191	5.2238	1	2	4	7	10
398	18207	5.9565	2	3	5	7	11
399	1633	3.5536	1	2	3	4	7
400	6897	9.0738	1	3	6	12	20
401	5881	11.1770	2	5	8	14	23
402	1501	3.9480	1	1	3	5	8
403	33467	8.0557	2	3	6	10	17
404	4520	4.2199	1	2	3	6	9
406	2572	10.3476	3	4	7	13	21
407	701	4.4051	1	2	4	6	8
408	2260	7.7088	1	2	5	10	18
409	3308	5.9344	2	3	4	6	11
410	41166	3.7183	1	2	3	5	6

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
 [FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
411	13	2.3077	1	1	2	4	4
412	29	2.7241	1	1	2	3	6
413	6216	7.2497	2	3	6	9	14
414	721	4.0902	1	2	3	5	8
415	40206	14.2110	4	6	11	18	28
416	196848	7.3514	2	4	6	9	14
417	36	5.8889	1	1	4	6	13
418	22285	6.1233	2	3	5	7	11
419	15990	4.8206	2	2	4	6	9
420	3108	3.5618	1	2	3	4	6
421	12326	3.8695	1	2	3	5	7
422	98	5.2551	1	2	2	5	7
423	8137	8.1292	2	3	6	10	17
424	1368	13.4561	2	5	9	16	28
425	15108	4.0764	1	2	3	5	8
426	4357	4.5582	1	2	3	6	9
427	1679	4.9803	1	2	3	6	10
428	849	7.0813	1	2	4	8	15
429	27615	6.4861	2	3	5	8	12
430	58361	8.1902	2	3	6	10	16
431	297	6.5758	2	3	5	8	13
432	394	4.8020	1	2	3	5	9
433	5831	3.0045	1	1	2	4	6
434	22063	5.0861	1	2	4	6	9
435	14652	4.3057	1	2	4	5	8
436	3548	12.8503	4	7	11	17	25
437	9841	8.9511	3	5	8	11	15
439	1306	8.1646	1	3	5	10	17
440	5063	8.8766	2	3	6	10	19
441	585	3.2496	1	1	2	4	7
442	16061	8.2365	1	3	6	10	17
443	3586	3.3943	1	1	2	4	7
444	5210	4.2263	1	2	3	5	8
445	2276	2.9921	1	1	2	4	5
447	4891	2.5113	1	1	2	3	5
448	1	4.0000	4	4	4	4	4
449	26785	3.6730	1	1	3	4	7
450	6439	2.0449	1	1	1	2	4
451	1	1.0000	1	1	1	1	1
452	21849	4.9674	1	2	3	6	10
453	4499	2.8137	1	1	2	3	5
454	4999	4.5603	1	2	3	6	9
455	1083	2.6214	1	1	2	3	5
461	3396	4.6184	1	1	2	5	11
462	12718	11.5531	4	6	9	15	21
463	19068	4.2743	1	2	3	5	8
464	5509	3.0764	1	1	2	4	6
465	228	3.3509	1	1	2	3	7
466	1752	3.9258	1	1	2	4	8
467	1320	4.0485	1	1	2	4	7
468	58920	12.9558	3	6	10	17	26
471	11488	5.7349	3	4	5	6	9
473	7674	12.8610	2	3	7	19	32
475	109697	11.1882	2	5	9	15	22
476	4474	11.6623	2	5	10	15	22
477	25946	8.1242	1	3	6	10	17
478	111979	7.3211	1	3	5	9	15
479	22533	3.6234	1	2	3	5	7
480	500	19.4980	7	9	14	23	39
481	274	26.7372	16	19	23	31	43
482	6178	12.8124	4	7	10	15	24
483	43726	39.1790	14	21	32	49	71
484	340	13.0853	2	5	10	18	28
485	3002	9.4867	4	5	7	11	18
486	2127	12.1208	1	5	9	16	25
487	3666	7.6328	1	3	6	10	15
488	779	16.9718	4	7	12	21	34
489	14444	8.5516	2	3	6	10	18
490	5357	5.1286	1	2	4	6	10
491	11403	3.4912	2	2	3	4	6

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
492	2695	16.1221	4	5	9	26	34
493	54404	5.7190	1	3	5	7	11
494	27453	2.4829	1	1	2	3	5
495	156	20.5000	6	8	12	19	33
496	1293	10.0093	4	5	7	12	18
497	22769	6.2233	2	3	5	7	11
498	19358	3.4145	1	2	3	4	6
499	30924	4.7726	1	2	4	6	9
500	42404	2.6896	1	1	2	3	5
501	1959	10.5630	4	5	8	13	20
502	621	5.9775	2	3	5	7	10
503	5625	3.9733	1	2	3	5	7
504	124	30.4677	10	15	25	40	63
505	155	4.7161	1	1	2	6	12
506	968	17.5651	4	8	14	24	37
507	285	9.2491	2	4	7	13	19
508	648	7.1605	2	3	5	9	15
509	167	6.0719	1	2	4	8	12
510	1673	7.8171	2	3	5	9	17
511	605	4.4413	1	1	3	6	10
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TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY
[FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
1	35352	9.1033	2	3	6	12	19
2	7158	9.6855	3	5	7	12	19
4	6095	7.3505	1	2	5	9	16
5	95604	3.2875	1	1	2	4	7
6	341	3.2405	1	1	2	4	7
7	12147	10.2938	2	4	7	13	21
8	3706	3.0108	1	1	2	4	7
9	1657	6.4484	1	3	5	8	12
10	18433	6.5983	2	3	5	8	13
11	3335	4.1739	1	2	3	5	8
12	45110	6.0509	2	3	4	7	11
13	6256	5.0973	2	3	4	6	9
14	331649	5.9608	2	3	5	7	11
15	140366	3.6304	1	2	3	5	7
16	11166	6.1358	2	3	5	7	12
17	3457	3.3679	1	2	3	4	6
18	26127	5.5433	2	3	4	7	10
19	8018	3.7403	1	2	3	5	7
20	5780	10.2894	3	5	8	13	20
21	1368	6.8575	2	3	5	9	13
22	2519	4.9389	2	2	4	6	9
23	8375	4.2302	1	2	3	5	8
24	52856	5.0134	1	2	4	6	10
25	24619	3.3092	1	2	3	4	6
26	20	3.2000	1	1	2	3	7
27	3645	5.1084	1	1	3	6	12
28	10832	6.2250	1	3	5	8	13
29	3985	3.7064	1	2	3	5	7
31	3299	4.2301	1	2	3	5	8
32	1587	2.7360	1	1	2	3	5
34	19649	5.1979	1	2	4	6	10
35	5233	3.4204	1	2	3	4	6
36	4249	1.3641	1	1	1	1	2
37	1494	3.6921	1	1	3	5	8
38	115	2.5304	1	1	1	3	5
39	1160	1.9112	1	1	1	2	4
40	1765	3.5955	1	1	2	4	8
41	1	4.0000	4	4	4	4	4
42	2723	2.2277	1	1	1	3	5
43	86	3.3605	1	2	3	4	7

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
 [FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
44	1237	4.9871	2	3	4	6	9
45	2509	3.2790	1	2	3	4	6
46	2970	4.5805	1	2	4	6	9
47	1181	3.3023	1	1	3	4	6
49	2245	4.9675	1	2	4	6	9
50	2587	1.9849	1	1	1	2	3
51	264	2.5303	1	1	1	3	6
52	198	2.1414	1	1	1	2	5
53	2594	3.6727	1	1	2	4	8
54	4	1.5000	1	1	1	1	3
55	1573	2.8843	1	1	1	3	6
56	533	3.0507	1	1	2	4	6
57	587	3.9642	1	1	2	4	8
59	115	2.5304	1	1	2	3	5
60	2	1.0000	1	1	1	1	1
61	212	4.8302	1	1	2	6	13
62	2	3.5000	2	2	5	5	5
63	3207	4.2728	1	2	3	5	9
64	3189	6.5124	1	2	4	8	14
65	31923	2.8964	1	1	2	4	5
66	6984	3.1714	1	1	3	4	6
67	482	3.5270	1	2	3	4	7
68	13468	4.1556	1	2	3	5	7
69	4268	3.2856	1	2	3	4	6
70	33	2.9091	1	2	3	4	5
71	105	3.8667	1	2	3	6	7
72	824	3.2961	1	2	3	4	6
73	6461	4.3439	1	2	3	5	8
75	39513	10.0058	3	5	8	12	20
76	40109	11.2755	3	5	9	14	21
77	2447	4.9775	1	2	4	7	10
78	30651	6.9464	3	5	6	8	11
79	183420	8.4683	3	4	7	11	16
80	8807	5.7434	2	3	5	7	10
81	5	9.2000	2	2	10	10	19
82	64149	6.9422	2	3	5	9	14
83	6599	5.5342	2	3	4	7	10
84	1553	3.3709	1	2	3	4	6
85	20150	6.3637	2	3	5	8	12
86	1948	3.7936	1	2	3	5	7
87	63294	6.2499	1	3	5	8	12
88	405792	5.2217	2	3	4	7	9
89	525499	6.0257	2	3	5	7	11
90	52326	4.2457	2	3	4	5	7
91	49	3.3469	1	2	3	4	5
92	13772	6.2509	2	3	5	8	12
93	1627	4.0412	1	2	3	5	7
94	12463	6.3016	2	3	5	8	12
95	1596	3.6942	1	2	3	5	7
96	65045	4.7268	2	3	4	6	8
97	31893	3.6895	1	2	3	5	7
98	20	4.7000	1	1	3	6	7
99	18262	3.2254	1	1	2	4	6
100	7333	2.2215	1	1	2	3	4
101	19863	4.4312	1	2	3	6	8
102	5056	2.7455	1	1	2	3	5
103	480	51.7875	9	13	31	70	121
104	33648	11.6443	3	6	10	15	22
105	29689	9.3034	4	5	7	11	17
106	3805	11.2100	5	7	9	13	19
107	90905	10.3450	5	7	9	12	17
108	5246	10.5442	3	5	8	13	20
109	61881	7.7309	4	5	6	9	13
110	55081	9.4414	2	5	8	11	18
111	7168	5.4788	2	4	5	7	8
112	61237	3.7595	1	1	3	5	8
113	44445	12.0916	3	6	9	15	24
114	8543	8.2800	2	4	7	10	16
115	14129	8.4099	1	4	7	11	16
116	309839	3.7278	1	1	3	5	8

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
117	3419	4.0433	1	1	2	5	9
118	6687	2.8065	1	1	1	3	6
119	1461	4.8542	1	1	3	6	12
120	36979	8.1175	1	2	5	10	18
121	164131	6.4386	2	3	5	8	12
122	81181	3.8293	1	2	3	5	7
123	41101	4.5805	1	1	3	6	11
124	135568	4.3735	1	2	3	6	8
125	75438	2.7854	1	1	2	4	5
126	5171	11.7343	3	6	9	14	23
127	683849	5.3364	2	3	4	7	10
128	11601	5.8042	3	4	5	7	9
129	4224	2.8570	1	1	1	3	7
130	89585	5.8066	2	3	5	7	10
131	27056	4.3774	1	3	4	6	7
132	153720	3.0483	1	1	2	4	6
133	7639	2.3961	1	1	2	3	4
134	33046	3.2976	1	2	3	4	6
135	7143	4.4714	1	2	3	5	9
136	1171	2.9086	1	1	2	4	6
138	192312	4.0086	1	2	3	5	8
139	77818	2.5076	1	1	2	3	5
140	76921	2.7133	1	1	2	3	5
141	86200	3.7088	1	2	3	5	7
142	42916	2.6786	1	1	2	3	5
143	186941	2.1669	1	1	2	3	4
144	79537	5.3212	1	2	4	7	11
145	6964	2.8153	1	1	2	4	6
146	11289	10.1758	5	7	9	12	17
147	2427	6.6135	3	5	6	8	10
148	134992	12.1212	5	7	10	14	22
149	17679	6.6565	4	5	6	8	10
150	20422	11.1531	4	7	9	14	20
151	4516	5.9289	2	3	5	8	10
152	4469	8.1962	3	5	7	10	14
153	1932	5.4596	3	4	5	7	8
154	29550	13.2586	4	7	10	16	25
155	6113	4.3496	1	2	3	6	8
156	2	28.0000	28	28	28	28	28
157	8234	5.4966	1	2	4	7	11
158	4427	2.6286	1	1	2	3	5
159	16531	5.0216	1	2	4	6	10
160	11070	2.7232	1	1	2	4	5
161	11547	4.1684	1	2	3	5	9
162	7071	1.9542	1	1	1	2	4
163	10	2.9000	1	1	3	3	6
164	4747	8.3994	4	5	7	10	14
165	1954	4.8547	2	3	5	6	8
166	3331	5.0793	2	3	4	6	9
167	2936	2.7101	1	2	2	3	5
168	1530	4.6556	1	2	3	6	9
169	810	2.4247	1	1	2	3	5
170	11351	11.1690	2	5	8	14	23
171	1132	4.8012	1	2	4	6	9
172	30705	6.9802	2	3	5	9	14
173	2519	3.8626	1	1	3	5	8
174	237539	4.8239	2	3	4	6	9
175	28266	2.9435	1	2	3	4	5
176	15708	5.2687	2	3	4	6	10
177	9537	4.5531	2	2	4	6	8
178	3603	3.1415	1	2	3	4	6
179	12290	6.0134	2	3	5	7	11
180	85505	5.3984	2	3	4	7	10
181	24481	3.4105	1	2	3	4	6
182	233949	4.3625	1	2	3	5	8
183	79105	2.9644	1	1	2	4	6
184	99	3.2525	1	2	3	4	5
185	4361	4.5015	1	2	3	6	9
186	2	4.5000	2	2	7	7	7
187	747	3.8220	1	2	3	5	8

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
 [FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
188	75007	5.5817	1	2	4	7	11
189	11195	3.1401	1	1	2	4	6
190	70	5.9857	2	3	4	6	11
191	9434	14.1406	4	7	10	18	28
192	987	6.5968	2	4	6	8	11
193	5705	12.5550	5	7	10	15	23
194	763	6.7720	2	4	6	8	12
195	4898	9.8944	4	6	8	12	17
196	1197	5.6942	2	4	5	7	9
197	20365	8.7337	3	5	7	11	16
198	6125	4.5063	2	3	4	6	8
199	1745	9.6682	3	4	8	13	19
200	1084	10.7694	2	4	8	14	22
201	1483	13.8206	3	6	11	18	27
202	25781	6.5065	2	3	5	8	13
203	29166	6.6874	2	3	5	9	13
204	55210	5.8583	2	3	4	7	11
205	22715	6.2907	2	3	5	8	12
206	1792	3.8337	1	2	3	5	7
207	30984	5.1140	1	2	4	6	10
208	9698	2.9013	1	1	2	4	6
209	343780	5.1256	3	3	4	6	8
210	127278	6.8141	3	4	6	8	11
211	31470	4.9173	3	4	4	6	7
212	7	3.0000	2	2	2	3	4
213	8933	8.7283	2	4	7	11	17
216	5871	9.7808	2	4	7	12	20
217	17768	13.1592	3	5	9	16	28
218	21572	5.3690	2	3	4	6	10
219	19377	3.2517	1	2	3	4	5
220	3	2.3333	1	1	2	4	4
223	17575	2.5861	1	1	2	3	5
224	8044	2.0525	1	1	2	3	4
225	5639	4.7074	1	2	3	6	10
226	4927	6.3028	1	2	4	8	13
227	4410	2.6689	1	1	2	3	5
228	2477	3.5620	1	1	2	4	8
229	1092	2.4011	1	1	2	3	5
230	2274	5.0721	1	2	3	6	10
231	10738	4.8361	1	2	3	6	10
232	571	3.5692	1	1	2	4	9
233	4607	7.7141	2	3	6	10	16
234	2702	3.5718	1	2	3	4	7
235	5378	5.1264	1	2	4	6	10
236	38845	4.8570	1	3	4	6	9
237	1587	3.7284	1	2	3	5	7
238	7674	8.4730	3	4	6	10	16
239	51992	6.2172	2	3	5	8	12
240	11944	6.5936	2	3	5	8	13
241	2987	3.9404	1	2	3	5	7
242	2498	6.5524	2	3	5	8	12
243	85571	4.7006	1	3	4	6	9
244	11961	4.7800	1	2	4	6	9
245	4968	3.7246	1	2	3	4	7
246	1344	3.6384	1	2	3	4	7
247	15158	3.4474	1	1	3	4	7
248	9412	4.7385	1	2	4	6	9
249	10792	3.7782	1	1	3	5	8
250	3542	4.2490	1	2	3	5	8
251	2383	2.9862	1	1	3	4	5
252	1	2.0000	2	2	2	2	2
253	19051	4.6967	1	3	4	6	9
254	10460	3.2059	1	2	3	4	6
255	1	1.0000	1	1	1	1	1
256	5875	5.1384	1	2	4	6	10
257	16871	2.8291	1	2	2	3	5
258	15844	2.0016	1	1	2	2	3
259	3741	2.7928	1	1	1	3	6
260	4817	1.4330	1	1	1	2	2
261	1766	2.1682	1	1	1	2	4

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
262	686	3.7886	1	1	3	5	7
263	24706	11.6014	3	5	8	14	23
264	3910	6.9575	2	3	5	8	14
265	3904	6.6201	1	2	4	8	14
266	2558	3.3143	1	1	2	4	7
267	257	5.2140	1	1	3	6	12
268	915	3.6907	1	1	2	4	8
269	8938	8.2558	2	3	6	10	16
270	2770	3.2762	1	1	2	4	7
271	21233	7.1222	2	4	6	8	13
272	5501	6.3356	2	3	5	8	12
273	1348	4.2151	1	2	3	5	8
274	2381	6.9475	2	3	5	9	14
275	229	3.3886	1	1	2	4	7
276	1089	4.6272	1	2	4	6	9
277	84223	5.7207	2	3	5	7	10
278	28771	4.3340	2	3	4	5	7
279	5	5.4000	2	2	5	5	11
280	15227	4.1968	1	2	3	5	8
281	6796	3.0705	1	1	3	4	6
283	5368	4.5561	1	2	3	6	9
284	1860	3.1962	1	1	2	4	6
285	6166	10.4710	3	5	8	13	20
286	2009	6.2225	2	3	5	7	11
287	6029	10.5382	3	5	8	13	20
288	2324	5.7087	2	3	4	6	9
289	4349	3.1474	1	1	2	3	7
290	8262	2.4317	1	1	2	2	4
291	58	1.6379	1	1	1	2	2
292	4999	9.9930	2	4	7	13	21
293	326	5.0644	1	2	4	7	10
294	84584	4.7150	1	2	4	6	9
295	3506	3.8811	1	2	3	5	7
296	233520	5.2416	2	3	4	6	10
297	41231	3.4777	1	2	3	4	6
298	112	3.1429	1	2	2	4	6
299	1067	5.6148	1	2	4	6	11
300	15669	6.1305	2	3	5	8	12
301	3135	3.7107	1	2	3	5	7
302	7834	9.3957	4	5	7	11	16
303	19520	8.4840	4	5	7	10	15
304	12114	8.9145	2	4	7	11	18
305	2886	3.8486	1	2	3	5	7
306	7970	5.4877	1	2	3	7	12
307	2232	2.2764	1	1	2	3	4
308	7725	6.3969	1	2	4	8	14
309	3977	2.4891	1	1	2	3	5
310	23844	4.3654	1	2	3	5	9
311	8265	1.8897	1	1	1	2	3
312	1576	4.5184	1	1	3	6	10
313	633	2.1137	1	1	1	3	4
314	2	1.0000	1	1	1	1	1
315	28842	7.5038	1	1	5	10	17
316	97170	6.6773	2	3	5	8	13
317	1237	3.1997	1	1	2	3	6
318	5569	6.0084	1	3	4	7	12
319	468	2.8782	1	1	2	4	6
320	182655	5.3861	2	3	4	7	10
321	28388	3.8467	1	2	3	5	7
322	72	4.1111	1	2	3	5	7
323	16486	3.2195	1	1	2	4	7
324	7426	1.8796	1	1	1	2	3
325	7844	3.8986	1	2	3	5	7
326	2434	2.6619	1	1	2	3	5
327	8	8.2500	1	1	1	4	13
328	724	3.8909	1	1	3	5	8
329	106	2.0472	1	1	1	3	4
331	43621	5.5330	1	2	4	7	11
332	4860	3.2687	1	1	2	4	7
333	306	5.0163	1	2	3	6	10

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
 [FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
334	12201	4.8961	2	3	4	6	8
335	11497	3.4117	2	3	3	4	5
336	40717	3.5248	1	2	3	4	7
337	30695	2.1778	1	1	2	3	3
338	1647	5.3024	1	2	3	7	12
339	1514	4.5594	1	1	3	6	10
340	1	1.0000	1	1	1	1	1
341	3866	3.2219	1	1	2	3	7
342	778	3.1221	1	2	2	4	6
344	3962	2.2532	1	1	1	2	4
345	1285	3.7681	1	1	2	5	8
346	4659	5.8032	1	3	4	7	11
347	399	3.3734	1	1	2	4	7
348	3125	4.2074	1	2	3	5	8
349	595	2.6101	1	1	2	3	5
350	6202	4.3955	2	2	4	5	8
352	651	3.8218	1	2	3	5	8
353	2646	6.7154	3	3	5	8	13
354	8251	5.8841	3	3	4	7	10
355	5733	3.3216	2	3	3	4	5
356	26097	2.4163	1	1	2	3	4
357	5799	8.5049	3	4	7	10	16
358	21754	4.3966	2	3	3	5	8
359	29329	2.8125	2	2	3	3	4
360	16206	2.9646	1	2	2	3	5
361	427	3.4637	1	1	2	4	7
362	2	2.0000	1	1	3	3	3
363	3100	3.4668	1	2	2	3	7
364	1626	3.5689	1	1	2	5	7
365	1936	7.2758	1	3	5	9	16
366	4266	6.7203	1	3	5	8	14
367	478	3.1695	1	1	2	4	7
368	2889	6.7196	2	3	5	8	13
369	2858	3.1963	1	1	2	4	6
370	1175	5.7174	3	3	4	5	9
371	1232	3.6445	2	3	3	4	5
372	952	3.4758	2	2	2	3	5
373	3982	2.2838	1	2	2	2	3
374	138	3.3696	1	2	2	3	5
375	6	2.6667	2	2	2	3	3
376	260	3.4577	1	2	2	4	7
377	54	3.8333	1	1	2	5	8
378	156	2.3333	1	1	2	3	4
379	370	3.0676	1	1	2	3	6
380	77	2.1688	1	1	2	2	4
381	179	1.9441	1	1	1	2	3
382	43	1.4884	1	1	1	2	2
383	1582	3.8957	1	1	3	5	8
384	128	2.2969	1	1	1	2	4
389	8	5.8750	3	3	4	8	10
390	20	3.9500	1	1	3	6	8
392	2524	9.4624	3	4	7	12	19
393	2	7.5000	7	7	8	8	8
394	1742	6.6791	1	2	4	8	15
395	81014	4.5335	1	2	3	6	9
396	20	3.8000	1	1	2	5	7
397	18191	5.2238	1	2	4	7	10
398	18199	5.9577	2	3	5	7	11
399	1641	3.5521	1	2	3	4	7
400	6893	9.0730	1	3	6	12	20
401	5865	11.1758	2	5	8	14	23
402	1503	3.9508	1	1	3	5	8
403	33074	8.0664	2	3	6	10	17
404	4484	4.2219	1	2	3	6	9
406	2574	10.3528	3	4	7	13	21
407	703	4.4040	1	2	4	6	8
408	2275	7.7354	1	2	5	10	18
409	3308	5.9344	2	3	4	6	11
410	41165	3.7184	1	2	3	5	6
411	13	2.3077	1	1	2	4	4

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
412	29	2.7241	1	1	2	3	6
413	6605	7.2450	2	3	6	9	14
414	761	4.0933	1	2	3	5	8
415	40206	14.2110	4	6	11	18	28
416	196848	7.3514	2	4	6	9	14
417	36	5.8889	1	1	4	6	13
418	22285	6.1233	2	3	5	7	11
419	15984	4.8204	2	2	4	6	9
420	3114	3.5649	1	2	3	4	6
421	12326	3.8695	1	2	3	5	7
422	98	5.2551	1	2	2	5	7
423	8137	8.1292	2	3	6	10	17
424	1368	13.4561	2	5	9	16	28
425	15108	4.0764	1	2	3	5	8
426	4357	4.5582	1	2	3	6	9
427	1679	4.9803	1	2	3	6	10
428	849	7.0813	1	2	4	8	15
429	27615	6.4861	2	3	5	8	12
430	58361	8.1902	2	3	6	10	16
431	297	6.5758	2	3	5	8	13
432	394	4.8020	1	2	3	5	9
433	5831	3.0045	1	1	2	4	6
434	22061	5.0864	1	2	4	6	9
435	14654	4.3052	1	2	4	5	8
436	3548	12.8503	4	7	11	17	25
437	9841	8.9511	3	5	8	11	15
439	1306	8.1646	1	3	5	10	17
440	5063	8.8766	2	3	6	10	19
441	585	3.2496	1	1	2	4	7
442	16061	8.2365	1	3	6	10	17
443	3586	3.3943	1	1	2	4	7
444	5206	4.2274	1	2	3	5	8
445	2280	2.9917	1	1	2	4	5
447	4891	2.5113	1	1	2	3	5
448	1	4.0000	4	4	4	4	4
449	26781	3.6732	1	1	3	4	7
450	6443	2.0449	1	1	1	2	4
451	1	1.0000	1	1	1	1	1
452	21847	4.9676	1	2	3	6	10
453	4501	2.8136	1	1	2	3	5
454	4997	4.5603	1	2	3	6	9
455	1085	2.6249	1	1	2	3	5
461	3397	4.6194	1	1	2	5	11
462	12718	11.5531	4	6	9	15	21
463	19065	4.2742	1	2	3	5	8
464	5511	3.0766	1	1	2	4	6
465	228	3.3509	1	1	2	3	7
466	1752	3.9258	1	1	2	4	8
467	1320	4.0485	1	1	2	4	7
468	58922	12.9489	3	6	10	17	26
471	11488	5.7349	3	4	5	6	9
473	7674	12.8610	2	3	7	19	32
475	109695	11.1883	2	5	9	15	22
476	4474	11.6623	2	5	10	15	22
477	25946	8.1242	1	3	6	10	17
478	111969	7.3211	1	3	5	9	15
479	22542	3.6236	1	2	3	5	7
480	500	19.4980	7	9	14	23	39
481	273	26.5641	16	19	23	31	41
482	6195	12.8199	4	7	10	15	24
483	43695	39.1662	14	22	32	49	71
484	340	13.0853	2	5	10	18	28
485	3002	9.4867	4	5	7	11	18
486	2127	12.1208	1	5	9	16	25
487	3666	7.6328	1	3	6	10	15
488	779	16.9718	4	7	12	21	34
489	14444	8.5516	2	3	6	10	18
490	5354	5.1291	1	2	4	6	10
491	11403	3.4912	2	2	3	4	6
492	2695	16.1221	4	5	9	26	34

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued
[FY99 MEDPAR update 03/00 Grouper V.18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
493	54388	5.7197	1	3	5	7	11
494	27469	2.4832	1	1	2	3	5
495	156	20.5000	6	8	12	19	33
496	1293	10.0093	4	5	7	12	18
497	22761	6.2244	2	3	5	7	11
498	19366	3.4143	1	2	3	4	6
499	30892	4.7750	1	2	4	6	9
500	42436	2.6894	1	1	2	3	5
501	1959	10.5630	4	5	8	13	20
502	621	5.9775	2	3	5	7	10
503	5625	3.9733	1	2	3	5	7
504	124	30.4677	10	15	25	40	63
505	155	4.7161	1	1	2	6	12
506	968	17.5651	4	8	14	24	37
507	285	9.2491	2	4	7	13	19
508	648	7.1605	2	3	5	9	15
509	167	6.0719	1	2	4	8	12
510	1673	7.8171	2	3	5	9	17
511	605	4.4413	1	1	3	6	10
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TABLE 8A.—STATEWIDE AVERAGE OPERATING COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS (CASE WEIGHTED) MARCH 2000

State	Urban	Rural
ALABAMA	0.401	0.355
ALASKA	0.470	0.723
ARIZONA	0.373	0.517
ARKANSAS	0.478	0.454
CALIFORNIA	0.342	0.441
COLORADO	0.436	0.559
CONNECTICUT	0.495	0.503
DELAWARE	0.507	0.449
DISTRICT OF COLUMBIA	0.521	
FLORIDA	0.363	0.381
GEORGIA	0.475	0.486
HAWAII	0.409	0.554
IDAHO	0.549	0.571
ILLINOIS	0.425	0.509
INDIANA	0.532	0.544
IOWA	0.493	0.624
KANSAS	0.444	0.652
KENTUCKY	0.478	0.493
LOUISIANA	0.410	0.496
MAINE	0.597	0.550
MARYLAND	0.759	0.821
MASSACHUSETTS	0.526	0.538
MICHIGAN	0.466	0.572
MINNESOTA	0.509	0.591
MISSISSIPPI	0.456	0.454
MISSOURI	0.413	0.507
MONTANA	0.524	0.572
NEBRASKA	0.468	0.623
NEVADA	0.292	0.486
NEW HAMPSHIRE	0.541	0.579
NEW JERSEY	0.401	
NEW MEXICO	0.452	0.498
NEW YORK	0.529	0.611
NORTH CAROLINA	0.540	0.489
NORTH DAKOTA	0.622	0.661
OHIO	0.511	0.578
OKLAHOMA	0.423	0.509
OREGON	0.607	0.582

TABLE 8A.—STATEWIDE AVERAGE OPERATING COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS (CASE WEIGHTED) MARCH 2000—Continued

State	Urban	Rural
PENNSYLVANIA	0.396	0.517
PUERTO RICO	0.479	0.579
RHODE ISLAND	0.522	
SOUTH CAROLINA	0.447	0.451
SOUTH DAKOTA	0.537	0.600
TENNESSEE	0.441	0.482
TEXAS	0.404	0.503
UTAH	0.504	0.619
VERMONT	0.623	0.595
VIRGINIA	0.466	0.498
WASHINGTON	0.576	0.653
WEST VIRGINIA	0.575	0.532
WISCONSIN	0.551	0.621
WYOMING	0.475	0.682

TABLE 8B.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS (CASE WEIGHTED) MARCH 2000

State	Ratio
ALABAMA	0.040
ALASKA	0.070
ARIZONA	0.041
ARKANSAS	0.050
CALIFORNIA	0.036
COLORADO	0.046
CONNECTICUT	0.036
DELAWARE	0.051
DISTRICT OF COLUMBIA	0.039
FLORIDA	0.045
GEORGIA	0.056
HAWAII	0.043
IDAHO	0.049
ILLINOIS	0.042
INDIANA	0.057
IOWA	0.056

TABLE 8B.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS (CASE WEIGHTED) MARCH 2000—Continued

State	Ratio
KANSAS	0.054
KENTUCKY	0.046
LOUISIANA	0.050
MAINE	0.039
MARYLAND	0.013
MASSACHUSETTS	0.055
MICHIGAN	0.045
MINNESOTA	0.049
MISSISSIPPI	0.045
MISSOURI	0.046
MONTANA	0.055
NEBRASKA	0.054
NEVADA	0.030
NEW HAMPSHIRE	0.061
NEW JERSEY	0.036
NEW MEXICO	0.044
NEW YORK	0.051
NORTH CAROLINA	0.050
NORTH DAKOTA	0.074
OHIO	0.050
OKLAHOMA	0.048
OREGON	0.049
PENNSYLVANIA	0.040
PUERTO RICO	0.043
RHODE ISLAND	0.030
SOUTH CAROLINA	0.047
SOUTH DAKOTA	0.066
TENNESSEE	0.051
TEXAS	0.048
UTAH	0.049
VERMONT	0.051
VIRGINIA	0.058
WASHINGTON	0.064
WEST VIRGINIA	0.047
WISCONSIN	0.053
WYOMING	0.057

Appendix A—Regulatory Impact Analysis

I. Introduction

Section 804(2) of Title 5, United States Code (as added by section 251 of Public Law 104–121), specifies that a major rule is any rule that the Office of Management and Budget finds is likely to result in—

- An annual effect on the economy of \$100 million or more;
- A major increase in costs 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 and export markets.

We estimate that the impact of this final rule relating to the annual update in payment rates and policy changes for hospital inpatient services and the implementation of the specified changes under Public Law 106–113 will be to increase payments to hospitals by approximately \$1.5 billion in FY 2001. We estimate that the impact of the final changes relating to the Medicare inpatient DSH adjustment calculation (a finalization of the January 20, 2000 interim final rule) to be \$350 million for FY 2001. Therefore, this rule is a major rule as defined in Title 5, United States Code, section 804(2).

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a final rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. With the exception of hospitals located in certain New England counties, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds that is located outside of a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA). Section 601(g) of the Social Security Amendments of 1983 (Pub. L. 98–21) designated hospitals in certain New England counties as belonging to the adjacent NECMA. Thus, for purposes of the hospital inpatient prospective payment system, we classify these hospitals as urban hospitals.

It is clear that the changes in this final rule will affect both a substantial number of small rural hospitals as well as other classes of hospitals, and the effects on some may be significant. Therefore, the discussion below, in combination with the rest of this final rule, constitutes a combined regulatory impact analysis and regulatory flexibility analysis.

We have reviewed this final rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that the final rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any one year by State, local or tribal governments, in the aggregate, or by the private sector, of \$100 million. This final rule does not mandate any requirements for State, local, or tribal governments.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

II. Changes in the Final Rule

Since we published the proposed rule, the market basket estimates for hospitals subject to the prospective payment system and hospitals and units excluded from the system have both risen by 0.3 percentage points. With the exception of these changes, we are generally implementing the policy and statutory provisions discussed in the proposed rule.

III. Limitations of Our Analysis

As has been the case in our previously published regulatory impact analyses, the following quantitative analysis presents the projected effects of our policy changes, as well as statutory changes effective for FY 2001, on various hospital groups. We estimate the effects of individual policy changes by estimating payments per case while holding all other payment policies constant. We use the best data available, but we do not attempt to predict behavioral responses to our policy changes, and we do not make adjustments for future changes in such variables as admissions, lengths of stay, or case-mix.

We received no comments on the methodology used for the impact analysis in the proposed rule.

IV. Hospitals Included In and Excluded From the Prospective Payment System

The prospective payment systems for hospital inpatient operating and capital-related costs encompass nearly all general, short-term, acute care hospitals that participate in the Medicare program. There were 45 Indian Health Service hospitals in our database, which we excluded from the analysis due to the special characteristics of the prospective payment method for these hospitals. Among other short-term, acute care hospitals, only the 50 such hospitals in Maryland remain excluded from the prospective payment system under the waiver at section 1814(b)(3) of the Act. Thus, as of July 2000, we have included 4,888 hospitals in our analysis. This represents about 80 percent of all Medicare-participating hospitals. The majority of this impact analysis focuses on this set of hospitals.

The remaining 20 percent are specialty hospitals that are excluded from the prospective payment system and continue to be paid on the basis of their reasonable costs (subject to a rate-of-increase ceiling on their inpatient operating costs per discharge). These hospitals include psychiatric, rehabilitation, long-term care, children's, and cancer hospitals. The impacts of our final

policy changes on these hospitals are discussed below.

V. Impact on Excluded Hospitals and Units

As of July 2000, there were 1,068 specialty hospitals excluded from the prospective payment system and instead paid on a reasonable cost basis subject to the rate-of-increase ceiling under § 413.40. Broken down by specialty, there were 529 psychiatric, 196 rehabilitation, 242 long-term care, 74 children's, 17 Christian Science Sanatoria, and 10 cancer hospitals. In addition, there were 1,468 psychiatric units and 918 rehabilitation units in hospitals otherwise subject to the prospective payment system. These excluded units are also paid in accordance with § 413.40. Under § 413.40(a)(2)(i)(A), the rate-of-increase ceiling is not applicable to the 36 specialty hospitals and units in Maryland that are paid in accordance with the waiver at section 1814(b)(3) of the Act.

As required by section 1886(b)(3)(B) of the Act, the update factor applicable to the rate-of-increase limit for excluded hospitals and units for FY 2001 will be between 0 and 3.4 percent, depending on the hospital's or unit's costs in relation to its limit for the most recent cost reporting period for which information is available.

The impact on excluded hospitals and units of the update in the rate-of-increase limit depends on the cumulative cost increases experienced by each excluded hospital or unit since its applicable base period. For excluded hospitals and units that have maintained their cost increases at a level below the percentage increases in the rate-of-increase limits since their base period, the major effect will be on the level of incentive payments these hospitals and units receive. Conversely, for excluded hospitals and units with per-case cost increases above the cumulative update in their rate-of-increase limits, the major effect will be the amount of excess costs that would not be reimbursed.

We note that, under § 413.40(d)(3), an excluded hospital or unit whose costs exceed 110 percent of its rate-of-increase limit receives its rate-of-increase limit plus 50 percent of the difference between its reasonable costs and 110 percent of the limit, not to exceed 110 percent of its limit. In addition, under the various provisions set forth in § 413.40, certain excluded hospitals and units can obtain payment adjustments for justifiable increases in operating costs that exceed the limit. At the same time, however, by generally limiting payment increases, we continue to provide an incentive for excluded hospitals and units to restrain the growth in their spending for patient services.

VI. Graduate Medical Education Impact of National Average Per Resident Amount (PRA)

As discussed in section IV.G. of the preamble, this final rule implements statutory provisions enacted by section 311 of Public Law 106–113 that establish a methodology for the use of a national average PRA in computing direct graduate medical education (GME) payments for cost reporting

periods beginning on or after October 1, 2000 and on or before September 30, 2005. The methodology establishes a "floor" and "ceiling" based on a locality-adjusted, updated national average PRA. Under section 1886(h)(2)(D)(iii) of the Act, as added by section 311(a) of Public Law 106-113, the PRA for a hospital for the cost reporting period beginning during FY 2001 cannot be below 70 percent of the locality-adjusted, updated national average PRA. Thus, if a hospital's PRA for the cost reporting period beginning during FY 2001 would otherwise be below the floor, the hospital's PRA for that cost reporting period is equal to 70 percent of the locality-adjusted, national average PRA. Under section 1886(h)(2)(D)(iv) of the Act, as added by section 311(a) of Public Law 106-113, if a hospital's PRA exceeds 140 percent of the locality-adjusted, updated national average PRA, the hospital's PRA is frozen (for FYs 2001 and 2002) or subject to a 2-percent reduction to the otherwise applicable update (for FYs 2003 through 2005). See section IV.G. of the preamble for a fuller explanation of this policy.

For purposes of the final rule, we have calculated an estimated impact of this policy on teaching hospitals' PRAs for FY 2001 making assumptions about update factors and geographic adjustment factors (GAF) for each hospital. Generally, utilizing FY 1997 data, we calculated a floor and a ceiling and estimated the impact on hospitals. This impact was then inflated to FY 2001 to estimate the total impact on the Medicare program for FY 2001. The estimated numbers for this impact should not be used by hospitals in calculating their own individual PRAs; hospitals must use the methodology stated in section IV.G. of this final rule to revise (if appropriate) their individual PRAs.

In calculating this impact, we utilized Medicare cost report data for all cost reports ending in FY 1997. We excluded hospitals that file manual cost reports because we did not have access to their Medicare utilization data. We also excluded all teaching hospitals in Maryland because these hospitals are paid under a Medicare waiver. For those hospitals that had two cost reporting periods ending in FY 1997, we used the later of the two periods. A total of 1,231 teaching hospitals were included in this analysis.

The impact in this final rule differs slightly from the impact in the proposed rule because we have determined a different weighted average PRA for this final rule, and we used the most recent CPI-U update factors to determine the impact for FY 2001. An explanation of why the weighted average PRA has changed for this final rule may be found in section IV.G.2 of this preamble.

Utilizing the FY 1997 weighted average PRA of \$68,464, we calculated a FY 1997 70-percent floor of \$47,925 and a FY 1997 140-percent ceiling of \$95,850. We then estimated that, for cost reporting periods ending in FY 1997, 336 hospitals had PRAs that were below \$47,925 (27.3 percent of 1,231 hospitals), and 180 hospitals had PRAs above \$95,850 (14.6 percent of 1,231 hospitals). Thus, for example, to illustrate the extremes in impact for a hospital with PRAs below the floor, Hospital A had a FY 1997 primary care PRA of \$22,000 and a non-primary care PRA

of \$20,000. When these PRAs are replaced by a single PRA of \$47,925, the hospital gains approximately 110 percent in payments per resident. For a hospital with PRAs above the ceiling, Hospital B had a FY 1997 primary care PRA of \$150,000 and a non-primary care PRA of \$148,000. When these PRAs are frozen and not updated for inflation in FY 2001, the percentage loss in payments per resident that year would be equal to the CPI-U percentage that would otherwise have been used to update the PRA.

For the 336 hospitals that had PRAs below the FY 1997 \$47,925 floor, we estimated that the total cost to the Medicare program for FY 2001 of applying the floor would be \$33.2 million. For the 180 hospitals that had PRAs above the FY 1997 \$95,850 ceiling, we estimated that the total savings to the Medicare program for FY 2001 would be \$16 million. Subtracting the estimated savings of \$16 million from the estimated costs of \$33.2 million yields an estimated total net cost to the Medicare program for FY 2001 of \$17.2 million.

VII. Quantitative Impact Analysis of the Policy Changes Under the Prospective Payment System for Operating Costs

A. Basis and Methodology of Estimates

In this final rule, we are announcing policy changes and payment rate updates for the prospective payment systems for operating and capital-related costs. We have prepared separate impact analyses of the changes to each system. This section deals with changes to the operating prospective payment system.

The data used in developing the quantitative analyses presented below are taken from the FY 1999 MedPAR file and the most current provider-specific file that is used for payment purposes. Although the analyses of the changes to the operating prospective payment system do not incorporate cost data, the most recently available hospital cost report data were used to categorize hospitals. Our analysis has several qualifications. First, we do not make adjustments for behavioral changes that hospitals may adopt in response to these policy changes. Second, due to the interdependent nature of the prospective payment system, it is very difficult to precisely quantify the impact associated with each change. Third, we draw upon various sources for the data used to categorize hospitals in the tables. In some cases, particularly the number of beds, there is a fair degree of variation in the data from different sources. We have attempted to construct these variables with the best available source overall. For individual hospitals, however, some miscategorizations are possible.

Using cases in the FY 1999 MedPAR file, we simulated payments under the operating prospective payment system given various combinations of payment parameters. Any short-term, acute care hospitals not paid under the general prospective payment systems (Indian Health Service hospitals and hospitals in Maryland) are excluded from the simulations. Payments under the capital prospective payment system, or payments for costs other than inpatient operating costs, are not analyzed here. Estimated payment

impacts of FY 2001 changes to the capital prospective payment system are discussed in section IX of this Appendix.

The final changes discussed separately below are the following:

- The effects of the annual reclassification of diagnoses and procedures and the recalibration of the diagnosis-related group (DRG) relative weights required by section 1886(d)(4)(C) of the Act.
- The effects of changes in hospitals' wage index values reflecting the wage index update (FY 1997 data).
- The effects of removing from the wage index the costs and hours associated with teaching physicians paid under Medicare Part A, residents, and certified registered nurse anesthetists (CRNAs) during the second year of a 5-year phase-out, by calculating a wage index based on 40 percent of hospitals' average hourly wages after removing these costs and hours, and 60 percent of hospitals' average hourly wages with these costs included.
- The effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB) that will be effective in FY 2001.
- The total change in payments based on FY 2001 policies relative to payments based on FY 2000 policies.

To illustrate the impacts of the FY 2001 final changes, our analysis begins with a FY 2000 baseline simulation model using: the FY 2000 DRG GROUPER (version 17.0); the FY 2000 wage index; and no MGCRB reclassifications. Outlier payments are set at 5.1 percent of total DRG plus outlier payments.

Each final and statutory policy change is then added incrementally to this baseline model, finally arriving at an FY 2001 model incorporating all of the changes. This allows us to isolate the effects of each change.

Our final comparison illustrates the percent change in payments per case from FY 2000 to FY 2001. Five factors have significant impacts here. The first is the update to the standardized amounts. In accordance with section 1886(d)(3)(A)(iv) of the Act, we are updating the large urban and the other areas average standardized amounts for FY 2001 using the most recently forecasted hospital market basket increase for FY 2001 of 3.4 percent minus 1.1 percentage points (for an update of 2.3 percent).

Under section 1886(b)(3) of the Act, as amended by section 406 of Public Law 106-113, the updates to the average standardized amounts and the hospital-specific amounts for sole community hospitals (SCHs) will be equal to the full market basket increase for FY 2001. Consequently, the update factor used for SCHs in this impact analysis is 3.4 percent. Under section 1886(b)(3)(D) of the Act, the update factor for the hospital-specific amounts for MDHs is equal to the market basket increase of 3.4 percent minus 1.1 percentage points (for an update of 2.3 percent).

A second significant factor that impacts changes in hospitals' payments per case from FY 2000 to FY 2001 is a change in MGCRB reclassification status from one year to the next. That is, hospitals reclassified in FY 2000 that are no longer reclassified in FY

2001 may have a negative payment impact going from FY 2000 to FY 2001; conversely, hospitals not reclassified in FY 2000 that are reclassified in FY 2001 may have a positive impact. In some cases, these impacts can be quite substantial, so if a relatively small number of hospitals in a particular category lose their reclassification status, the percentage change in payments for the category may be below the national mean.

A third significant factor is that we currently estimate that actual outlier payments during FY 2000 will be 6.2 percent of actual total DRG payments. When the FY 2000 final rule was published, we projected FY 2000 outlier payments would be 5.1 percent of total DRG payments; the standardized amounts were offset correspondingly. The effects of the higher than expected outlier payments during FY 2000 (as discussed in the Addendum to this final rule) are reflected in the analyses below comparing our current estimates of FY 2000 payments per case to estimated FY 2001 payments per case.

Fourth, section 111 of Public Law 106-113 revised section 1886(d)(5)(B)(ii) of the Act so that the IME adjustment changes from FY 2000 to FY 2001 from approximately a 6.5 percent increase for every 10 percent increase in a hospital's resident-to-bed ratio during FY 2000 to approximately a 6.2 percent increase in FY 2001. Similarly, section 112 of Public Law 106-113 revised section 1886(d)(5)(F)(ix) of the Act so that the DSH adjustment for FY 2001 is reduced by 3 percent from what would otherwise have been paid (this is the same percentage reduction that was applied in FY 2000). Additionally, the January 20, 2000 interim final rule with comment revised policy, effective with discharges occurring on or after January 20, 2000, to allow hospitals to include the patient days of all populations eligible for Title XIX matching payments in a State's section 1115 waiver in calculating the hospital's Medicare DSH adjustment.

Finally, section 405 of Public Law 106-113 provided that certain SCHs may elect to receive payment on the basis of their costs per case during their cost reporting period that began during FY 1996. To be eligible, a SCH must have received payment on the basis of its hospital-specific rate for its cost

reporting period beginning during 1999. For FY 2001, eligible SCHs that elect rebasing receive a hospital-specific rate comprised of 75-percent of the higher of their FY 1982 or FY 1987 hospital-specific rate, and 25-percent of their FY 1996 hospital-specific rate.

Table I demonstrates the results of our analysis. The table categorizes hospitals by various geographic and special payment consideration groups to illustrate the varying impacts on different types of hospitals. The top row of the table shows the overall impact on the 4,888 hospitals included in the analysis. This number is 34 fewer hospitals than were included in the impact analysis in the FY 2000 final rule (64 FR 41624).

The next four rows of Table I contain hospitals categorized according to their geographic location (all urban, which is further divided into large urban and other urban, or rural). There are 2,752 hospitals located in urban areas (MSAs or NECMAs) included in our analysis. Among these, there are 1,571 hospitals located in large urban areas (populations over 1 million), and 1,181 hospitals in other urban areas (populations of 1 million or fewer). In addition, there are 2,136 hospitals in rural areas. The next two groupings are by bed-size categories, shown separately for urban and rural hospitals. The final groupings by geographic location are by census divisions, also shown separately for urban and rural hospitals.

The second part of Table I shows hospital groups based on hospitals' FY 2001 payment classifications, including any reclassifications under section 1886(d)(10) of the Act. For example, the rows labeled urban, large urban, other urban, and rural show that the number of hospitals paid based on these categorizations (after consideration of geographic reclassifications) are 2,833, 1,665, 1,168, and 2,055, respectively.

The next three groupings examine the impacts of the final changes on hospitals grouped by whether or not they have residency programs (teaching hospitals that receive an IME adjustment) or receive DSH payments, or some combination of these two adjustments. There are 3,770 nonteaching hospitals in our analysis, 876 teaching hospitals with fewer than 100 residents, and 242 teaching hospitals with 100 or more residents.

In the DSH categories, hospitals are grouped according to their DSH payment status, and whether they are considered urban or rural after MGCRB reclassifications. Hospitals in the rural DSH categories, therefore, represent hospitals that were not reclassified for purposes of the standardized amount or for purposes of the DSH adjustment. (They may, however, have been reclassified for purposes of the wage index.) The next category groups hospitals considered urban after geographic reclassification, in terms of whether they receive the IME adjustment, the DSH adjustment, both, or neither.

The next five rows examine the impacts of the final changes on rural hospitals by special payment groups (SCHs, rural referral centers (RRCs), and MDHs), as well as rural hospitals not receiving a special payment designation. The RRCs (150), SCHs (661), MDHs (352), and SCH and RRCs (57) shown here were not reclassified for purposes of the standardized amount. There are 26 RRCs, 1 MDH, 4 SCHs and 3 SCH and RRCs that will be reclassified as urban for the standardized amount in FY 2001 and, therefore, are not included in these rows.

The next two groupings are based on type of ownership and the hospital's Medicare utilization expressed as a percent of total patient days. These data are taken primarily from the FY 1998 Medicare cost report files, if available (otherwise FY 1997 data are used). Data needed to determine ownership status or Medicare utilization percentages were unavailable for 2 and 85 hospitals, respectively. For the most part, these are new hospitals.

The next series of groupings concern the geographic reclassification status of hospitals. The first three groupings display hospitals that were reclassified by the MGCRB for both FY 2000 and FY 2001, or for only one of those 2 years, by urban and rural status. The next rows illustrate the overall number of FY 2001 reclassifications, as well as the numbers of reclassified hospitals grouped by urban and rural location. The final row in Table I contains hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act.

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2001 OPERATING PROSPECTIVE PAYMENT SYSTEM
[Percent changes in payments per case]

	Number of hosps. ¹	DRG recalib. ²	New wage data ³	Phase out of GME and CRNA costs ⁴	DRG and WI changes ⁵	MGCRB reclassification ⁶	All FY 2001 changes ⁷
	(0)	(1)	(2)	(3)	(4)	(5)	(6)
(BY GEOGRAPHIC LOCATION):							
ALL HOSPITALS	4,888	0.0	0.2	0.1	0.0	0.0	1.5
URBAN HOSPITALS	2,752	0.0	0.1	0.0	-0.1	-0.4	1.4
LARGE URBAN AREAS	1,571	0.0	0.1	0.0	-0.1	-0.5	1.3
OTHER URBAN AREAS	1,181	0.0	0.1	0.1	0.0	-0.3	1.5
RURAL HOSPITALS	2,136	0.2	0.6	0.1	0.6	2.5	2.5
BED SIZE (URBAN):							
0-99 BEDS	716	0.2	0.1	0.1	0.3	-0.6	1.6
100-199 BEDS	944	0.1	0.1	0.1	0.1	-0.5	1.5
200-299 BEDS	548	0.1	0.1	0.1	-0.1	-0.4	1.3
300-499 BEDS	401	0.0	0.0	0.1	-0.2	-0.4	1.1

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2001 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued
 [Percent changes in payments per case]

	Number of hosps. ¹	DRG recalib. ²	New wage data ³	Phase out of GME and CRNA costs ⁴	DRG and WI changes ⁵	MGCRB reclassi- fication ⁶	All FY 2001 changes ⁷
	(0)	(1)	(2)	(3)	(4)	(5)	(6)
500 OR MORE BEDS	143	-0.1	0.4	0.0	0.0	-0.4	1.6
BED SIZE (RURAL):							
0-49 BEDS	1,233	0.2	0.6	0.1	0.6	0.2	3.1
50-99 BEDS	535	0.2	0.6	0.1	0.6	0.8	2.6
100-149 BEDS	219	0.2	0.6	0.1	0.6	3.4	2.1
150-199 BEDS	81	0.2	0.7	0.1	0.6	5.2	2.6
200 OR MORE BEDS	68	0.1	0.6	0.1	0.5	4.5	2.2
URBAN BY CENSUS DIVISION:							
NEW ENGLAND	146	0.0	-0.9	0.1	-0.3	-0.2	0.9
MIDDLE ATLANTIC	421	0.1	0.1	-0.1	-0.2	-0.3	1.2
SOUTH ATLANTIC	404	0.0	0.0	0.1	-0.2	-0.6	1.1
EAST NORTH CENTRAL	463	0.0	0.5	0.0	0.2	-0.3	2.0
EAST SOUTH CENTRAL	161	0.0	-0.1	0.0	-0.5	-0.6	0.8
WEST NORTH CENTRAL	188	-0.1	0.3	0.0	-0.1	-0.6	1.4
WEST SOUTH CENTRAL	351	0.0	1.3	0.1	1.0	-0.6	2.3
MOUNTAIN	133	0.0	0.3	0.1	0.0	-0.5	1.6
PACIFIC	440	0.0	-0.5	0.2	-0.6	-0.5	0.7
PUERTO RICO	45	0.1	-0.1	0.0	-0.1	-0.6	1.7
RURAL BY CENSUS DIVISION:							
NEW ENGLAND	52	0.1	-0.1	0.0	-0.3	2.8	2.2
MIDDLE ATLANTIC	80	0.2	-0.1	0.0	-0.2	2.5	2.2
SOUTH ATLANTIC	277	0.2	1.0	0.1	1.0	2.9	2.8
EAST NORTH CENTRAL	283	0.2	0.6	0.1	0.5	2.2	2.6
EAST SOUTH CENTRAL	266	0.2	0.6	0.1	0.5	2.8	2.6
WEST NORTH CENTRAL	492	0.1	0.5	0.1	0.4	2.3	2.5
WEST SOUTH CENTRAL	340	0.2	1.0	0.1	1.0	3.0	2.1
MOUNTAIN	201	0.2	0.4	0.1	0.3	1.6	2.7
PACIFIC	140	0.2	0.3	0.1	0.3	1.9	2.3
PUERTO RICO	5	0.2	0.3	-0.2	0.1	-0.7	0.2
(BY PAYMENT CATEGORIES):							
URBAN HOSPITALS	2,833	0.0	0.1	0.0	-0.1	-0.4	1.4
LARGE URBAN	1,665	0.0	0.1	0.0	-0.1	-0.3	1.4
OTHER URBAN	1,168	0.0	0.2	0.1	0.0	-0.4	1.3
RURAL HOSPITALS	2,055	0.2	0.6	0.1	0.6	2.2	2.6
TEACHING STATUS:							
NON-TEACHING	3,770	0.1	0.2	0.1	0.2	0.3	1.6
FEWER THAN 100 RESIDENTS	876	0.0	0.2	0.0	-0.1	-0.3	1.4
100 OR MORE RESIDENTS	242	-0.1	0.2	0.0	-0.2	-0.3	1.6
DISPROPORTIONATE SHARE HOSPITALS (DSH):							
NON-DSH	3,070	0.1	0.1	0.1	-0.1	0.3	1.5
URBAN DSH							
100 BEDS OR MORE	1,390	0.0	0.2	0.0	0.0	-0.4	1.5
FEWER THAN 100 BEDS	72	0.1	0.4	0.1	0.4	-0.5	1.9
RURAL DSH							
SOLE COMMUNITY (SCH)	149	0.3	0.9	0.1	0.9	0.2	3.6
REFERRAL CENTERS (RRC)	56	0.2	0.8	0.1	0.8	5.2	2.4
OTHER RURAL DSH HOSPITALS							
100 BEDS OR MORE	48	0.3	1.1	0.1	1.1	1.4	2.9
FEWER THAN 100 BEDS	103	0.3	0.9	0.1	1.0	0.3	2.3
URBAN TEACHING AND DSH:							
BOTH TEACHING AND DSH	726	0.0	0.2	0.0	0.0	-0.5	1.6
TEACHING AND NO DSH	327	0.0	0.0	0.0	-0.4	-0.2	1.2
NO TEACHING AND DSH	736	0.1	0.2	0.1	0.2	-0.3	1.3
NO TEACHING AND NO DSH	1,044	0.1	0.0	0.1	-0.1	-0.3	1.0
RURAL HOSPITAL TYPES:							
NONSPECIAL STATUS HOSPITALS	835	0.2	0.9	0.1	0.9	1.0	2.4
RRC	150	0.2	0.8	0.1	0.7	6.1	2.4
SCH	661	0.2	0.4	0.1	0.3	0.2	3.3
MDH	352	0.2	0.7	0.1	0.6	0.3	2.7
SCH AND RRC	57	0.1	0.3	0.0	0.1	1.6	2.2
TYPE OF OWNERSHIP:							
VOLUNTARY	2,840	0.0	0.2	0.0	0.0	-0.1	1.5
PROPRIETARY	745	0.1	0.2	0.1	0.1	-0.1	1.3
GOVERNMENT	1,301	0.1	0.2	0.1	0.0	0.2	1.8
UNKNOWN	2	0.0	0.5	0.1	0.3	-0.4	2.7

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2001 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued
[Percent changes in payments per case]

	Number of hosps. ¹	DRG recalib. ²	New wage data ³	Phase out of GME and CRNA costs ⁴	DRG and WI changes ⁵	MGCRB reclassi- fication ⁶	All FY 2001 changes ⁷
	(0)	(1)	(2)	(3)	(4)	(5)	(6)
MEDICARE UTILIZATION AS A PERCENT OF INPATIENT DAYS:							
0—25	381	0.0	0.2	0.1	.....	-0.3	1.8
25—50	1,830	0.0	0.1	0.0	-0.1	-0.3	1.4
50—65	1,893	0.1	0.3	0.1	0.2	0.2	1.6
OVER 65	699	0.1	0.2	0.1	0.1	0.3	1.4
UNKNOWN	85	-0.1	0.5	-0.1	0.1	-0.6	1.2
HOSPITALS RECLASSIFIED BY THE MEDICARE GEOGRAPHIC REVIEW BOARD:							
RECLASSIFICATION STATUS DURING FY 2000 AND FY 2001							
RECLASSIFIED DURING BOTH FY 2000 AND FY 2001							
URBAN	377	0.1	0.4	0.1	0.4	6.0	1.8
RURAL	53	0.0	-0.1	0.1	0.1	5.8	1.7
RECLASSIFIED DURING FY 2001 ONLY	324	0.1	0.6	0.1	0.5	6.2	1.9
URBAN	149	0.1	0.4	0.1	0.3	4.8	7.1
RURAL	35	0.1	0.1	0.1	-0.1	4.7	6.6
RECLASSIFIED DURING FY 2000 ONLY	114	0.2	0.8	0.1	0.7	4.9	7.6
URBAN	172	0.1	0.5	0.1	0.3	-0.9	-1.7
RURAL	70	0.0	0.4	0.1	0.1	-1.1	-0.8
FY 2000 RECLASSIFICATIONS:	102	0.2	0.7	0.1	0.7	-0.5	-3.1
ALL RECLASSIFIED HOSPITALS	527	0.1	0.4	0.1	0.4	5.8	3.0
STANDARDIZED AMOUNT ONLY	66	0.2	0.6	0.1	0.6	4.1	4.1
WAGE INDEX ONLY	386	0.1	0.5	0.1	0.4	4.8	0.6
BOTH	46	0.2	0.1	0.1	0.0	4.3	2.6
NONRECLASSIFIED	4,364	0.0	0.2	0.0	0.0	-0.5	1.6
ALL URBAN RECLASSIFIED	88	0.0	0.0	0.1	0.1	5.4	3.2
STANDARDIZED AMOUNT ONLY	17	0.2	0.0	0.0	-0.1	0.7	0.9
WAGE INDEX ONLY	38	0.0	-0.1	0.1	0.2	5.8	2.5
BOTH	33	0.0	0.1	0.1	-0.1	6.2	5.1
NONRECLASSIFIED	2,638	0.0	0.1	0.0	-0.1	-0.7	1.3
ALL RURAL RECLASSIFIED	439	0.1	0.6	0.1	0.5	5.9	2.9
STANDARDIZED AMOUNT ONLY	54	0.1	0.6	0.1	0.5	4.2	-0.1
WAGE INDEX ONLY	358	0.2	0.6	0.1	0.6	5.8	3.2
BOTH	27	0.1	0.3	0.1	0.1	9.4	2.9
NONRECLASSIFIED	1,697	0.2	0.6	0.1	0.6	-0.5	2.2
OTHER RECLASSIFIED HOSPITALS (SECTION 1886(d)(8)(B))	26	0.2	-0.4	0.0	-0.4	1.0	1.3

¹ Because data necessary to classify some hospitals by category were missing, the total number of hospitals in each category may not equal the national total. Discharge data are from FY 1999, and hospital cost report data are from reporting periods beginning in FY 1997 and FY 1998.

² This column displays the payment impact of the recalibration of the DRG weights based on FY 1999 MedPAR data and the DRG reclassification changes, in accordance with section 1886(d)(4)(C) of the Act.

³ This column shows the payment effects of updating the data used to calculate the wage index with data from the FY 1997 cost reports.

⁴ This column displays the impact of removing 60 percent of the costs and hours associated with teaching physicians Part A, residents, and CRNAs from the wage index calculation.

⁵ This column displays the combined impact of the reclassification and recalibration of the DRGs, the updated and revised wage data used to calculate the wage index, and the budget neutrality adjustment factor for these two changes, in accordance with sections 1886(d)(4)(C)(iii) and 1886(d)(3)(E) of the Act. Thus, it represents the combined impacts shown in columns 1, 2 and 3, and the FY 2001 budget neutrality factor of .997225.

⁶ Shown here are the effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB). The effects demonstrate the FY 2001 payment impact of going from no reclassifications to the reclassifications scheduled to be in effect for FY 2001. Re-classification for prior years has no bearing on the payment impacts shown here.

⁷ This column shows changes in payments from FY 2000 to FY 2001. It incorporates all of the changes displayed in columns 4 and 5 (the changes displayed in columns 1, 2, and 3 are included in column 4). It also displays the impact of the FY 2001 update (including the higher update for SCHs), changes in hospitals' reclassification status in FY 2001 compared to FY 2000, the difference in outlier payments from FY 2000 to FY 2001, and the reductions to payments through the IME adjustment taking effect during FY 2001. It also reflects section 405 of Public law 106-113, which permitted certain SCHs to rebase for a 1996 hospital-specific rate. The sum of these columns may be different from the percentage changes shown here due to rounding and interactive effects.

B. Impact of the Changes to the DRG Reclassifications and Recalibration of Relative Weights (Column 1)

In column 1 of Table I, we present the combined effects of the DRG reclassifications

and recalibration, as discussed in section II of the preamble to this final rule. Section 1886(d)(4)(C)(i) of the Act requires us to annually make appropriate classification changes and to recalibrate the DRG weights in order to reflect changes in treatment

patterns, technology, and any other factors that may change the relative use of hospital resources.

We compared aggregate payments using the FY 2000 DRG relative weights (GROUPEP version 17) to aggregate payments using the

FY 2001 DRG relative weights (GROUPEP version 18). Overall payments are unaffected by the DRG reclassification and recalibration. Consistent with the minor changes we made in the FY 2001 GROUPEP, the redistributive impacts of DRG reclassifications and recalibration across hospital groups are very small (a 0.0 percent impact for large and other urban hospitals; a 0.2 percent increase for rural hospitals). Within hospital categories, the net effects for urban hospitals are small positive changes for small hospitals (a 0.2 percent increase for hospitals with fewer than 100 beds), and small decreases for larger hospitals (a 0.1 percent decrease for hospitals with more than 500 beds). Among rural hospitals, most hospital categories experienced small positive changes, 0.2 percent increases for hospitals with fewer than 200 beds and 0.1 percent increases for hospitals with more than 200 beds.

The breakdown by urban census division shows that the small decrease among urban hospitals is confined to the West North Central region. Payments to urban hospitals in most other regions are unchanged, while payments to urban hospitals in the Middle Atlantic and Puerto Rico regions rise by 0.1 percent. All rural hospital census divisions experience payment increases ranging from 0.1 percent for hospitals in New England and West North Central regions to 0.2 percent for hospitals in the South Atlantic, Middle Atlantic, East North Central, East South Central, West South Central, Pacific, Mountain, and Puerto Rico regions.

C. Impact of Updating the Wage Data (Column 2)

Section 1886(d)(3)(E) of the Act requires that, beginning October 1, 1993, we annually update the wage data used to calculate the wage index. In accordance with this requirement, the wage index for FY 2001 is based on data submitted for hospital cost reporting periods beginning on or after October 1, 1996 and before October 1, 1997. As with the previous column, the impact of the new data on hospital payments is isolated by holding the other payment parameters constant in the two simulations. That is, column 2 shows the percentage changes in payments when going from a model using the FY 2000 wage index (based on FY 1996 wage data before geographic reclassifications to a model using the FY 2001 prereclassification wage index based on FY 1997 wage data). Section 152 of Public Law 106-113 reclassified certain hospitals for purposes of the wage index and the standardized amounts. For purposes of this column, these hospitals are located in their prereclassification geographic location. The impacts of these statutory reclassifications are shown in column 5, when examining the impacts of geographic reclassification.

The wage data collected on the FY 1997 cost reports are similar to the data used in the calculation of the FY 2000 wage index. For a thorough discussion of the data used to calculate the wage index, see section III.B. of this final rule.

The results indicate that the new wage data have an overall impact of a 0.2 percent increase in hospital payments (prior to

applying the budget neutrality factor, see column 5). Rural hospitals appear to benefit from the update as their payments increase by 0.6 percent. These increases are attributable to positive increases in the wage index values for the rural areas of several States; California, Illinois, Indiana, Ohio, Texas and Minnesota all had increases of approximately 3 percent in their prereclassification wage index values.

Urban hospitals as a group are not significantly affected by the updated wage data. Hospitals in both other urban areas and large urban areas experienced a small positive increase (0.1 percent). Urban hospitals in New England experienced a 0.9 percent decrease from the updated wage data due to declines ranging from 5 to 1 percent in the wage index values for several MSAs in Connecticut and Massachusetts. Urban hospitals in the Pacific census region experience a 0.5 percent decline due to several MSAs in California with prereclassified FY 2001 wage indexes that fall by 5 percent or less.

The largest increases are seen in the rural census divisions. Rural South Atlantic and West South Central regions experience the greatest positive impact, 1.0 percent. Hospitals in five other census divisions receive positive impacts of 0.5 or greater: East North Central at 0.6, East South Central at 0.6, and West North Central at 0.5. The following chart compares the shifts in wage index values for labor market areas for FY 2000 relative to FY 2001. This chart demonstrates the impact of the changes for the FY 2001 wage index relative to the FY 2000 wage index. The majority of labor market areas (339) experience less than a 5 percent change. A total of 21 labor market areas experience an increase of more than 5 percent with only 1 having an increase greater than 10 percent. A total of 15 areas experience decreases of more than 5 percent. Of those, only 1 decline by 10 percent or more.

Percentage change in area wage index values	Number of labor market areas	
	FY 2000	FY 2001
Increase more than 10 percent	8	1
Increase more than 5 percent and less than 10 percent	22	20
Increase or decrease less than 5 percent	318	339
Decrease more than 5 percent and less than 10 percent	17	14
Decrease more than 10 percent	5	1

Among urban hospitals, 96 would experience an increase of between 5 and 10 percent and 2 more than 10 percent. No rural hospitals have increases greater than 5 percent. On the negative side, 106 urban

hospitals have decreases in their wage index values of at least 5 percent but less than 10 percent. One urban hospital has a decrease in their wage index value that is greater than 10 percent. Two rural hospitals have decreases in their wage index values that are greater than 5 percent but less than 10 percent. The following chart shows the projected impact for urban and rural hospitals.

Percentage change in area wage index values	Number of hospitals	
	Urban	Rural
Increase more than 10 percent	2	0
Increase more than 5 percent and less than 10 percent	96	0
Increase or decrease less than 5 percent	2547	2134
Decrease more than 5 percent and less than 10 percent	106	2
Decrease more than 10 percent	1	0

D. Impact of 5-Year Phase-Out of Teaching Physicians', Residents', and CRNAs' Costs (Column 3)

As described in section III.C. of this preamble, the FY 2001 wage index is calculated by blending 60 percent of hospitals' average hourly wages calculated without removing teaching physician (paid under Medicare Part A), residents, or CRNA costs (and hours) and 40 percent of average hourly wages calculated after removing these costs (and hours). This constitutes the second year of a 5-year phase-out of these costs and hours, where the proportion of the calculation based upon average hourly wages after removing these costs increases by 20 percentage points per year.

In order to determine the impact of moving from the 80/20 blend percentage to the 60/40 blend percentage, we first estimated the payments for FY 2001 using the FY 2001 prereclassified wage index calculated using the 80/20 blend percentage (Column 2). We then estimated what the payments for FY 2001 would have been if the 60/40 blend percentage was applied to the FY 2001 prereclassified wage index. Column 3 compares the differences in these payment estimates and shows that the 60/40 blend percentage does not significantly impact overall payments (0.0 percent change). Although there were 165 labor market areas that experience a small percent decrease in their wage index, most of the decreases were less than 3 percent.

E. Combined Impact of DRG and Wage Index Changes— Including Budget Neutrality Adjustment (Column 4)

The impact of DRG reclassifications and recalibration on aggregate payments is required by section 1886(d)(4)(C)(iii) of the Act to be budget neutral. In addition, section

1886(d)(3)(E) of the Act specifies that any updates or adjustments to the wage index are to be budget neutral. As noted in the Addendum to this final rule, we compared simulated aggregate payments using the FY 2000 DRG relative weights and wage index to simulated aggregate payments using the FY 2001 DRG relative weights and blended wage index. Based on this comparison, we computed a wage and recalibration budget neutrality factor of 0.997225. In Table I, the combined overall impacts of the effects of both the DRG reclassifications and recalibration and the updated wage index are shown in column 4. The 0.0 percent impact for all hospitals demonstrates that these changes, in combination with the budget neutrality factor, are budget neutral.

For the most part, the changes in this column are the sum of the changes in columns 1, 2, and 3, minus approximately 0.3 percent attributable to the budget neutrality factor. There may be some variation of plus or minus 0.1 percent due to rounding.

F. Impact of MGCRB Reclassifications (Column 5)

Our impact analysis to this point has assumed hospitals are paid on the basis of their actual geographic location (with the exception of ongoing policies that provide that certain hospitals receive payments on bases other than where they are geographically located, such as hospitals in rural counties that are deemed urban under section 1886(d)(8)(B) of the Act). The changes in column 5 reflect the per case payment impact of moving from this baseline to a simulation incorporating the MGCRB decisions for FY 2001. As noted below, these decisions affect hospitals' standardized amount and wage index area assignments.

Beginning in 1998, by February 28 of each year, the MGCRB makes reclassification determinations that will be effective for the next fiscal year, which begins on October 1. The MGCRB may approve a hospital's reclassification request for the purpose of using the other area's standardized amount, wage index value, or both, or for FYs 1999 through 2001, for purposes of qualifying for a DSH adjustment or to receive a higher DSH payment.

The FY 2001 wage index values incorporate all of the MGCRB's reclassification decisions for FY 2001. The wage index values also reflect any decisions made by the HCFA Administrator through the appeals and review process. Additional changes that resulted from the Administrator's review of MGCRB decisions or a request by a hospital to withdraw its application are reflected in this final rule for FY 2001.

Section 152 of Public Law 106-113 reclassified certain hospitals for purposes of the wage index and the standardized amounts. The impacts of these statutory reclassifications are included in this column.

The overall effect of geographic reclassification is required by section 1886(d)(8)(D) of the Act to be budget neutral. Therefore, we applied an adjustment of 0.993187 to ensure that the effects of reclassification are budget neutral. (See

section II.A.4.b. of the Addendum to this final rule.)

As a group, rural hospitals benefit from geographic reclassification. Their payments rise 2.5 percent, while payments to urban hospitals decline 0.4 percent. Hospitals in other urban areas see a decrease in payments of 0.3 percent, while large urban hospitals lose 0.5 percent. Among urban hospital groups (that is, bed size, census division, and special payment status), payments generally decline.

A positive impact is evident among most of the rural hospital groups. The largest decrease among the rural census divisions is 0.7 percent for Puerto Rico. The largest increases are in rural West South Central and South Atlantic. These regions receive increases of 3.0 and 2.9 percent, respectively.

Among rural hospitals designated as RRCs, 179 hospitals are reclassified for purposes of the wage index only, leading to the 6.1 percent increase in payments among RRCs overall. This positive impact on RRCs is also reflected in the category of rural hospitals with 150-199 beds, which has a 5.2 percent increase in payments.

Rural hospitals reclassified for FY 2000 and FY 2001 experience a 6.2 percent increase in payments. This may be due to the fact that these hospitals have the most to gain from reclassification and have been reclassified for a period of years. Rural hospitals reclassified for FY 2001 only experience a 4.9 percent increase in payments, while rural hospitals reclassified for FY 2000 only experience a 0.5 percent decrease in payments. Urban hospitals reclassified for FY 2001 but not FY 2000 experience a 4.7 percent increase in payments overall. Urban hospitals reclassified for FY 2000 but not for FY 2001 experience a 1.1 percent decline in payments.

The FY 2001 Reclassification rows of Table I show the changes in payments per case for all FY 2001 reclassified and nonreclassified hospitals in urban and rural locations for each of the three reclassification categories (standardized amount only, wage index only, or both). The table illustrates that the largest impact for reclassified rural hospitals is for those hospitals reclassified for both the standardized amount and the wage index. These hospitals receive a 9.4 percent increase in payments. In addition, rural hospitals reclassified just for the wage index receive a 5.8 percent payment increase. The overall impact on reclassified hospitals is to increase their payments per case by an average of 5.9 percent for FY 2001.

The reclassification of hospitals primarily affects payment to nonreclassified hospitals through changes in the wage index and the geographic reclassification budget neutrality adjustment required by section 1886(d)(8)(D) of the Act. Among hospitals that are not reclassified, the overall impact of hospital reclassifications is an average decrease in payments per case of about 0.5 percent. Rural nonreclassified hospitals decrease by 0.5 percent, and urban nonreclassified hospitals lose 0.7 percent (the amount of the budget neutrality offset).

G. All Changes (Column 6)

Column 6 compares our estimate of payments per case, incorporating all changes reflected in this final rule for FY 2001 (including statutory changes), to our estimate of payments per case in FY 2000. It includes the effects of the 2.3 percent update to the standardized amounts and the hospital-specific rates for MDHs and the 3.4 percent update for SCHs. It also reflects the 1.1 percentage point difference between the projected outlier payments in FY 2000 (5.1 percent of total DRG payments) and the current estimate of the percentage of actual outlier payments in FY 2000 (6.2 percent), as described in the introduction to this Appendix and the Addendum to this final rule.

Another change affecting the difference between FY 2000 and FY 2001 payments arises from section 1886(d)(5)(B) of the Act, as amended by Public Law 106-113. As noted in the introduction to this impact analysis, for FY 2001, the IME adjustment is decreased from last year (6.5 percent in FY 2000 and 6.2 percent in FY 2001).

We also note that column 6 includes the impacts of FY 2001 MGCRB reclassifications compared to the payment impacts of FY 2000 reclassifications. Therefore, when comparing FY 2001 payments to FY 2000, the percent changes due to FY 2001 reclassifications shown in column 5 need to be offset by the effects of reclassification on hospitals' FY 2000 payments (column 7 of Table 1, July 30, 1999 final rule (64 FR 41625)). For example, the impact of MGCRB reclassifications on rural hospitals' FY 2001 payments was approximately a 2.5 percent increase, offsetting most of the 2.6 percent increase in column 7 for FY 2000. Therefore, the net change in FY 2001 payments due to reclassification for rural hospitals is actually a decrease of 0.1 percent relative to FY 2000. However, last year's analysis contained a somewhat different set of hospitals, so this might affect the numbers slightly.

Finally, section 405 of Public Law 106-113 provided that certain SCHs may elect to receive payment on the basis of their costs per case during their cost reporting period that began during 1996. To be eligible, a SCH must have received payment for cost reporting periods beginning during 1999 on the basis of its hospital-specific rate. For FY 2001, eligible SCHs that elect rebasing receive a hospital-specific rate comprised of 75 percent of the higher of their FY 1982 or FY 1987 hospital-specific rate, and 25 percent of their 1996 hospital-specific rate. The impact of this provision is modeled in column 6 as well.

There might also be interactive effects among the various factors comprising the payment system that we are not able to isolate. For these reasons, the values in column 6 may not equal the sum of the changes in columns 4 and 5, plus the other impacts that we are able to identify.

The overall payment change from FY 2000 to FY 2001 for all hospitals is a 1.5 percent increase. This reflects the 2.3 percent update for FY 2001 (3.4 percent for SCHs), the 1.0 percent lower outlier payments in FY 2001 compared to FY 2000 (5.1 percent compared to 6.2 percent); the change in the IME

adjustment (6.5 in FY 2000 to 6.2 in FY 2001); and the rebasing of certain SCHs to their 1996 hospital-specific rate.

Hospitals in urban areas experience a 1.4 percent increase in payments per case compared to FY 2000. The 0.4 percent negative impact due to reclassification is offset by an identical negative impact for FY 2000. Hospitals in rural areas, meanwhile, experience a 2.5 percent payment increase. As discussed previously, this is primarily due to the positive effect of the wage index and DRG changes and reclassifications.

Among urban census divisions, payments increased between 0.7 and 2.3 percent between FY 2000 and FY 2001. The rural census division experiencing the smallest increase in payments was Puerto Rico (0.2

percent). The largest increases by rural hospitals are in the South Atlantic and Mountain regions, 2.8 and 2.7 percent, respectively. Among other rural census divisions, the largest increases are in the East South Central and the East North Central, both with 2.6.

Among special categories of rural hospitals, those hospitals receiving payment under the hospital-specific methodology (SCHs, MDHs, and SCH/RRCs) experience payment increases of 3.3 percent, 2.7 percent, and 2.2 percent, respectively. This outcome is primarily related to the fact that, for hospitals receiving payments under the hospital-specific methodology, there are no outlier payments. Therefore, these hospitals do not experience negative payment impacts

from the decline in the percentage of outlier payments from FY 2000 to FY 2001 (from 6.2 of total DRG payments to 5.1 percent) as do hospitals paid based on the national standardized amounts.

The largest negative payment impacts from FY 2000 to FY 2001 are among hospitals that were reclassified for FY 2000 and are not reclassified for FY 2001. Overall, these hospitals lose 1.7 percent. The urban hospitals in this category lose 0.8 percent, while the rural hospitals lose 3.1 percent. On the other hand, hospitals reclassified for FY 2001 that were not reclassified for FY 2000 would experience the greatest payment increases: 7.1 percent overall; 7.6 percent for 114 rural hospitals in this category and 6.6 percent for 35 urban hospitals.

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2000; OPERATING PROSPECTIVE PAYMENT SYSTEM
[Payments per case]

	Number of hospitals (1)	Average FY 2000 payment per case (2) ¹	Average FY 2001 payment per case (3) ¹	All changes (4)
(BY GEOGRAPHIC LOCATION):				
ALL HOSPITALS	4,888	6,783	6,885	1.5
URBAN HOSPITALS	2,752	7,354	7,454	1.4
LARGE URBAN AREAS	1,571	7,895	7,996	1.3
OTHER URBAN AREAS	1,181	6,650	6,747	1.5
RURAL HOSPITALS	2,136	4,544	4,658	2.5
BED SIZE (URBAN):				
0-99 BEDS	716	4,947	5,025	1.6
100-199 BEDS	944	6,202	6,294	1.5
200-299 BEDS	548	7,042	7,132	1.3
300-499 BEDS	401	7,885	7,974	1.1
500 OR MORE BEDS	143	9,547	9,703	1.6
BED SIZE (RURAL):				
0-49 BEDS	1,233	3,784	3,901	3.1
50-99 BEDS	535	4,248	4,358	2.6
100-149 BEDS	219	4,648	4,746	2.1
150-199 BEDS	81	5,090	5,220	2.6
200 OR MORE BEDS	68	5,710	5,838	2.2
URBAN BY CENSUS DIVISION:				
NEW ENGLAND	146	7,815	7,888	0.9
MIDDLE ATLANTIC	421	8,296	8,396	1.2
SOUTH ATLANTIC	404	7,022	7,098	1.1
EAST NORTH CENTRAL	463	7,006	7,144	2
EAST SOUTH CENTRAL	161	6,627	6,683	0.8
WEST NORTH CENTRAL	188	7,105	7,203	1.4
WEST SOUTH CENTRAL	351	6,760	6,917	2.3
MOUNTAIN	133	7,044	7,156	1.6
PACIFIC	440	8,572	8,633	0.7
PUERTO RICO	45	3,156	3,209	1.7
RURAL BY CENSUS DIVISION:				
NEW ENGLAND	52	5,468	5,586	2.2
MIDDLE ATLANTIC	80	4,910	5,016	2.2
SOUTH ATLANTIC	277	4,680	4,813	2.8
EAST NORTH CENTRAL	283	4,591	4,710	2.6
EAST SOUTH CENTRAL	266	4,209	4,317	2.6
WEST NORTH CENTRAL	492	4,348	4,458	2.5
WEST SOUTH CENTRAL	340	4,061	4,144	2.1
MOUNTAIN	201	4,863	4,995	2.7
PACIFIC	140	5,583	5,712	2.3
PUERTO RICO	5	2,447	2,453	0.2
(BY PAYMENT CATEGORIES):				
URBAN HOSPITALS	2,833	7,312	7,411	1.4
LARGE URBAN	1,665	7,797	7,905	1.4
OTHER URBAN	1,168	6,637	6,724	1.3
RURAL HOSPITALS	2,055	4,509	4,627	2.6
TEACHING STATUS:				
NON-TEACHING	3,770	5,464	5,550	1.6
FEWER THAN 100 RESIDENTS	876	7,125	7,223	1.4

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2000; OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued
[Payments per case]

	Number of hospitals (1)	Average FY 2000 payment per case (2) ¹	Average FY 2001 payment per case (3) ¹	All changes (4)
100 OR MORE RESIDENTS	242	10,828	11,001	1.6
DISPROPORTIONATE SHARE HOSPITALS (DSH):				
NON-DSH	3,070	5,810	5,895	1.5
URBAN DSH:				
100 BEDS OR MORE	1,390	7,919	8,037	1.5
FEWER THAN 100 BEDS	72	4,927	5,019	1.9
RURAL DSH:				
SOLE COMMUNITY (SCH)	149	4,140	4,290	3.6
REFERRAL CENTERS (RRC)	56	5,415	5,543	2.4
OTHER RURAL DSH HOSPITALS:				
100 BEDS OR MORE	48	4,097	4,218	2.9
FEWER THAN 100 BEDS	103	3,714	3,798	2.3
URBAN TEACHING AND DSH:				
BOTH TEACHING AND DSH	726	8,826	8,962	1.6
TEACHING AND NO DSH	327	7,322	7,409	1.2
NO TEACHING AND DSH	736	6,311	6,395	1.3
NO TEACHING AND NO DSH	1,044	5,668	5,727	1
RURAL HOSPITAL TYPES:				
NONSPECIAL STATUS HOSPITALS	835	3,922	4,017	2.4
RRC	150	5,257	5,382	2.4
SCH	661	4,502	4,650	3.3
MDH	352	3,784	3,885	2.7
SCH AND RRC	57	5,500	5,620	2.2
TYPE OF OWNERSHIP:				
VOLUNTARY	2,840	6,945	7,079	1.5
PROPRIETARY	745	6,300	6,384	1.3
GOVERNMENT	1,301	6,400	6,512	1.8
UNKNOWN	2	3,406	3,499	2.7
MEDICARE UTILIZATION AS A PERCENT OF INPATIENT DAYS:				
0—25	381	9,013	9,172	1.8
25—50	1,830	7,858	7,968	1.4
50—65	1,893	5,910	6,007	1.6
OVER 65	699	5,260	5,336	1.4
UNKNOWN	85	9,997	10,116	1.2
HOSPITALS RECLASSIFIED BY THE MEDICARE GEOGRAPHIC REVIEW BOARD:				
RECLASSIFICATION STATUS DURING FY 2000 AND FY 2001:				
RECLASSIFIED DURING BOTH FY 2000 AND FY 2001	377	5,851	5,958	1.8
URBAN	53	8,027	8,161	1.7
RURAL	324	5,249	5,348	1.9
RECLASSIFIED DURING FY 2001 ONLY	149	5,537	5,930	7.1
URBAN	35	6,971	7,428	6.6
RURAL	114	4,623	4,975	7.6
RECLASSIFIED DURING FY 2000 ONLY	172	6,011	5,909	-1.7
URBAN	70	7,454	7,394	-0.8
RURAL	102	4,620	4,476	-3.1
FY 2000 RECLASSIFICATIONS:				
ALL RECLASSIFIED HOSPITALS	527	5,776	5,948	3
STANDARDIZED AMOUNT ONLY	66	4,697	4,888	4.1
WAGE INDEX ONLY	386	5,878	5,913	0.6
BOTH	46	6,295	6,457	2.6
NONRECLASSIFIED	4,364	6,912	7,019	1.6
ALL URBAN RECLASSIFIED	88	7,660	7,906	3.2
STANDARDIZED AMOUNT ONLY	17	5,333	5,379	0.9
WAGE INDEX ONLY	38	8,718	8,934	2.5
BOTH	33	7,217	7,584	5.1
NONRECLASSIFIED	2,638	7,355	7,449	1.3
ALL RURAL RECLASSIFIED	439	5,128	5,275	2.9
STANDARDIZED AMOUNT ONLY	54	4,785	4,779	-0.1
WAGE INDEX ONLY	358	5,153	5,316	3.2
BOTH	27	5,258	5,410	2.9
NONRECLASSIFIED	1,697	4,114	4,204	2.2
OTHER RECLASSIFIED HOSPITALS (SECTION 1886(d)(8)(B))	26	4,713	4,775	1.3

¹ These payment amounts per case do not reflect any estimates of annual case-mix increase.

Table II presents the projected impact of the changes for FY 2001 for urban and rural hospitals and for the different categories of hospitals shown in Table I. It compares the estimated payments per case for FY 2000 with the average estimated per case payments for FY 2001, as calculated under our models. Thus, this table presents, in terms of the average dollar amounts paid per discharge, the combined effects of the changes presented in Table I. The percentage changes shown in the last column of Table II equal the percentage changes in average payments from column 6 of Table I.

VIII. Impact of Organ, Tissue and Eye Procurement Condition of Participation on CAHs

In this final rule, we are adding a CoP for organ, tissue and eye procurement for CAHs. We estimate that the procurement costs for organ, eyes, and tissue for CAHs is negligible. This estimate is based on the following projections. There are several provisions in this condition that will impact CAHs to a greater or lesser degree. Specifically, CAHs are required to have written protocols; have agreements with an OPO, a tissue bank, and an eye bank; refer all deaths that occur in the CAH to the OPO or a third party designated by the OPO; ensure that CAH employees who initiate a request for donation to the family of a potential donor have been trained as a designated requestor; and work cooperatively with the OPO, tissue bank, and eye bank in educating CAH staff, reviewing death records, and maintaining potential donors. It is important to note that because of the inherent flexibility of this condition, the extent of its economic impact is dependent upon decisions that will be made either by the CAH or by the CAH in conjunction with the OPO or the tissue and eye banks. Thus, the impact on individual CAHs will vary and is subject in large part to their decision making. The impact will also vary based on whether a CAH currently has an organ donation protocol and its level of compliance with existing law and regulations. For example, if a CAH was a Medicare hospital in compliance with the hospital CoP for organ, tissue, and eye procurement prior to converting to a CAH, there will be no additional impact.

The first requirement in the CoP is that CAHs have and implement written protocols that reflect the various other requirements of the CoP. Currently, under section 1138 of the Act, CAHs must have written protocols for organ donation. Most CAHs will need to rewrite their existing protocols to conform with this regulation; however, this is clearly not a requirement that imposes a significant economic burden.

In addition, a CAH must have an agreement with its designated OPO and with at least one tissue bank and at least one eye bank. CAHs are required under section 1138 of the Act to refer all potential donors to an OPO. Also, the OPO regulation at 42 CFR 486.306 requires, as a qualification for designation as an OPO, that the OPO have a working relationship with at least 75 percent of the hospitals in its service area that participate in the Medicare and Medicaid programs and that have an operating room

and the equipment and personnel for retrieving organs. Therefore, some CAHs may already have an agreement with their designated OPO. Although CAHs may need to modify those existing agreements, the need to make modifications would not impose a significant economic burden. Although there is no statutory or regulatory requirement for a CAH to have agreements with tissue and eye banks, we must assume some CAHs have agreements with tissue and eye banks, since hospitals are the source for virtually all tissues and eyes.

The CoP requires CAHs to notify the OPO about every death that occurs in the CAH. The average Medicare hospital has approximately 165 beds and 200 deaths per year. However, by statute and regulation, CAHs may use no more than 15 beds for acute care services. Assuming that the number of deaths in a hospital is related to the number of acute care beds, there should be approximately 18 deaths per year in the average CAH. Thus, the economic impact for a CAH of referring all deaths would be small.

Under the CoP, a CAH may agree to have the OPO determine medical suitability for tissue and eye donation or may have alternative arrangements with a tissue bank and an eye bank. These alternative arrangements could include the CAH's direct notification of the tissue and eye bank of potential tissue and eye donors or direct notification of all deaths. Again, the impact is small, and the regulation permits the CAH to decide how this process will take place. We recognize that many communities already have a one-phone-call system in place. In addition, some OPOs are also tissue banks or eye banks or both. A CAH that chose to use the OPO's tissue and eye bank services in these localities would need to make only one telephone call on every death.

This CoP requires that the individual who initiates a request for donation to the family of a potential donor must be an OPO representative or a designated requestor. A designated requestor is an individual who has taken a course offered or approved by the OPO in the methodology for approaching families of potential donors and requesting donation. The CAH would need to arrange for designated requestor training. Most OPOs have trained designated requestors as part of the hospital CoP for organ, tissue, and eye procurement. Even if the CAH wants to have a sufficient number of designated requestors to ensure that all shifts are covered, this provision of the regulation would not have a significant economic impact on CAHs. In addition, the CAH may be able to choose to have donation requests initiated by the OPO, the tissue bank, or the eye bank staff rather than CAH staff, in which case there is no economic impact.

The regulation requires a CAH to work cooperatively with the OPO, a tissue bank, and an eye bank in educating CAH staff. We do not believe education of CAH staff will demand a significant amount of staff time. In addition, most OPOs already give educational presentations for the staff in their hospitals.

The regulation requires a CAH to work cooperatively with the OPO, a tissue bank, and an eye bank in reviewing death records.

Most OPOs currently conduct extensive CAH death record reviews. The CAH's assistance is required only to provide lists of CAH deaths and facilitate access to records.

Finally, the regulation requires a CAH to work cooperatively with the OPO, a tissue bank, and an eye bank in maintaining potential donors while necessary testing and placement of potential donated organs and tissues take place. It is possible that because of the CoP, some CAHs may have their first organ donors. Therefore, we considered the impact on a CAH of maintaining a brain dead potential donor on a ventilator until the organs can be placed. CAHs with full ventilator capability should have no trouble maintaining a potential donor until the organs are placed. However, some CAHs have ventilator capability only so that a patient can be maintained until he or she is transferred to a larger facility for treatment. These CAHs would have the equipment and staffing to maintain a potential donor until transfer to another facility occurs. Some CAHs do not have ventilator capability and would be unable to maintain a potential donor. However, CAHs without ventilator capability would still be obligated to notify the OPO, or a third party designated by the OPO, of all individuals whose death is imminent or who have died in the CAH because there is a potential to obtain a tissue or an eye donation. We do not believe there will be a significant impact on CAHs no matter what their situation—full ventilator capability, ventilator capability only for patients who are to be transferred to a larger facility, or no ventilator capability.

Although, as stated previously, there are several requirements in this CoP that will impact CAHs to a greater or lesser degree, we assert that the potential benefits to beneficiaries exceed the associated costs of requiring CAHs to comply with this standard. As stated in the Hospital Conditions of Participation; Identification of Potential Organ, Tissue, and Eye Donors and Transplant Hospitals' Provision of Transplant-Related Data regulation published on June 22, 1998 in the **Federal Register** (63 FR 33872), there were 3.11 organs transplanted for every donor recovered. Further, we do not believe there will be a significant impact on CAHs no matter what their situation—full ventilator capability, ventilator capability only for patients who are to be transferred to a larger facility, or no ventilator capability. Based on a HCFA actuarial opinion, the cost for CAHs to implement this requirement is negligible. We reviewed the comprehensive analysis in the impact section for the hospital CoP discussed in the above referenced regulation and determined that the analysis and assumptions made at that time are valid for this CAH CoP.

We expect that this regulation will increase tissue and eye donations as well as organ donations. A study of the impact of the Pennsylvania routine referral legislation on tissue and eye donations was presented at the Fourth International Society for Organ Sharing Congress and Transplant Congress in July 1997. (Nathan, HM, Abrams, J, Sparkman BA, *et al.* "Comprehensive State Legislation Increases Organ and Tissue

Donations'') This study used data from the Delaware Valley Transplant Program, the OPO for Southeastern Pennsylvania, and found that although the maximum donor age was lowered from <66 to <60, tissue donations increased 14 percent from 1994 through 1996. The study also showed that eye donations increased 28 percent during the same period, despite more restrictive donor criteria. This virtually eliminated the waiting list for suitable corneas. North Carolina's routine referral legislation became effective in October 1997. The Carolina Organ Procurement Agency (one of three North Carolina OPOs) has seen heart valve donations increase by 109 percent and other tissue donations increase 114 percent through May 1998.

We did not receive any public comments on the impact of this provision.

IX. Impact of Medicare Disproportionate Share Hospital (DSH) Adjustment Calculation Policy Change in the Treatment of Certain Medicaid Patient Days in States With 1115 Expansion Waivers

As discussed in the January 20, 2000 interim final rule with comment period, we revised the policy for the Medicare disproportionate share hospital adjustment provision set forth under section 1886(d)(5)(F) of the Act to allow hospitals located in states with section 1115 expansion waivers to include the patient days of all populations eligible for title XIX matching payments under a State's section 1115 waiver in calculating the hospital's Medicare DSH adjustment.

There are currently eight States with section 1115 expansion waivers (Delaware, Hawaii, Massachusetts, Missouri, New York, Oregon, Tennessee, and Vermont). Under the provisions of this final rule, hospitals in these eight States will be allowed to include in the Medicaid percentage portion of their Medicare DSH calculation the inpatient hospital days attributable to patients who are eligible under the State's section 1115 expansion waiver. Because our policy was that these days were not allowable prior to January 20, 2000, by allowing hospitals to begin to include these days in their Medicare DSH calculation, the impact will be to increase the DSH payments these hospitals will receive compared to what they would receive absent this change.

We have estimated the impact of this change to be \$270 million in higher FY 2000 prospective payments system payments (total FY 2000 DSH payments are projected to be \$4.6 billion), and \$370 million in FY 2001 payments. Thus the total impact of this change for the period from FY 2001 through FY 2005 is estimated to be \$2.14 billion.

X. Impact of Changes in the Capital Prospective Payment System

A. General Considerations

We now have cost report data for the 7th year of the capital prospective payment system (cost reports beginning in FY 1998) available through the March 2000 update of the HCRIS. We also have updated information on the projected aggregate amount of obligated capital approved by the fiscal intermediaries. However, our impact

analysis of payment changes for capital-related costs is still limited by the lack of hospital-specific data on several items. These are the hospital's projected new capital costs for each year, its projected old capital costs for each year, and the actual amounts of obligated capital that will be put in use for patient care and recognized as Medicare old capital costs in each year. The lack of this information affects our impact analysis in the following ways:

- Major investment in hospital capital assets (for example, in building and major fixed equipment) occurs at irregular intervals. As a result, there can be significant variation in the growth rates of Medicare capital-related costs per case among hospitals. We do not have the necessary hospital-specific budget data to project the hospital capital growth rate for individual hospitals.

- Our policy of recognizing certain obligated capital as old capital makes it difficult to project future capital-related costs for individual hospitals. Under § 412.302(c), a hospital is required to notify its intermediary that it has obligated capital by the later of October 1, 1992, or 90 days after the beginning of the hospital's first cost reporting period under the capital prospective payment system. The intermediary must then notify the hospital of its determination whether the criteria for recognition of obligated capital have been met by the later of the end of the hospital's first cost reporting period subject to the capital prospective payment system or 9 months after the receipt of the hospital's notification. The amount that is recognized as old capital is limited to the lesser of the actual allowable costs when the asset is put in use for patient care or the estimated costs of the capital expenditure at the time it was obligated. We have substantial information regarding fiscal intermediary determinations of projected aggregate obligated capital amounts. However, we still do not know when these projects will actually be put into use for patient care, the actual amount that will be recognized as obligated capital when the project is put into use, or the Medicare share of the recognized costs. Therefore, we do not know actual obligated capital commitments for purposes of the FY 2001 capital cost projections. In Appendix B of this final rule, we discuss the assumptions and computations that we employ to generate the amount of obligated capital commitments for use in the FY 2001 capital cost projections.

In Table III of this section, we present the redistributive effects that are expected to occur between "hold-harmless" hospitals and "fully prospective" hospitals in FY 2001. In addition, we have integrated sufficient hospital-specific information into our actuarial model to project the impact of the FY 2001 capital payment policies by the standard prospective payment system hospital groupings. While we now have actual information on the effects of the transition payment methodology and interim payments under the capital prospective payment system and cost report data for most hospitals, we still need to randomly generate numbers for the change in old capital costs,

new capital costs for each year, and obligated amounts that will be put in use for patient care services and recognized as old capital each year. We continue to be unable to predict accurately FY 2001 capital costs for individual hospitals, but with the most recent data on hospitals' experience under the capital prospective payment system, there is adequate information to estimate the aggregate impact on most hospital groupings.

B. Projected Impact Based on the FY 2001 Actuarial Model

1. Assumptions

In this impact analysis, we model dynamically the impact of the capital prospective payment system from FY 2000 to FY 2001 using a capital cost model. The FY 2001 model, as described in Appendix B of this final rule, integrates actual data from individual hospitals with randomly generated capital cost amounts. We have capital cost data from cost reports beginning in FY 1989 through FY 1998 as reported on the March 2000 update of HCRIS, interim payment data for hospitals already receiving capital prospective payments through PRICER, and data reported by the intermediaries that include the hospital-specific rate determinations that have been made through April 1, 2000 in the provider-specific file. We used these data to determine the FY 2001 capital rates. However, we do not have individual hospital data on old capital changes, new capital formation, and actual obligated capital costs. We have data on costs for capital in use in FY 1998, and we age that capital by a formula described in Appendix B. Therefore, we need to randomly generate only new capital acquisitions for any year after FY 1998. All Federal rate payment parameters are assigned to the applicable hospital.

For purposes of this impact analysis, the FY 2001 actuarial model includes the following assumptions:

- Medicare inpatient capital costs per discharge will change at the following rates during these periods:

AVERAGE PERCENTAGE CHANGE IN CAPITAL COSTS PER DISCHARGE

Fiscal year	Percentage change
1999	3.12
2000	3.31
2001	2.95

- We estimate that the Medicare case-mix index will increase by 0.5 percent in FY 2000 and in FY 2001.

- The Federal capital rate and the hospital-specific rate were updated in FY 1996 by an analytical framework that considers changes in the prices associated with capital-related costs and adjustments to account for forecast error, changes in the case-mix index, allowable changes in intensity, and other factors. The FY 2001 update is 0.9 percent (see section IV. of the Addendum to this final rule).

2. Results

We have used the actuarial model to estimate the change in payment for capital-related costs from FY 2000 to FY 2001. Table III shows the effect of the capital prospective payment system on low capital cost hospitals

and high capital cost hospitals. We consider a hospital to be a low capital cost hospital if, based on a comparison of its initial hospital-specific rate and the applicable Federal rate, it will be paid under the fully prospective payment methodology. A high

capital cost hospital is a hospital that, based on its initial hospital-specific rate and the applicable Federal rate, will be paid under the hold-harmless payment methodology. Based on our actuarial model, the breakdown of hospitals is as follows:

CAPITAL TRANSITION PAYMENT METHODOLOGY FOR FY 2001

Type of hospital	Percent of hospitals	Percent of discharges	Percent of capital costs	Percent of capital payments
Low Cost Hospital	67	62	56	61
High Cost Hospital	33	38	44	39

A low capital cost hospital may request to have its hospital-specific rate redetermined based on old capital costs in the current year, through the later of the hospital's cost reporting period beginning in FY 1994 or the first cost reporting period beginning after obligated capital comes into use (within the limits established in § 412.302(e) for putting obligated capital into use for patient care). If the redetermined hospital-specific rate is greater than the adjusted Federal rate, these hospitals will be paid under the hold-

harmless payment methodology. Regardless of whether the hospital became a hold-harmless payment hospital as a result of a redetermination, we continue to show these hospitals as low capital cost hospitals in Table III.

Assuming no behavioral changes in capital expenditures, Table III displays the percentage change in payments from FY 2000 to FY 2001 using the above described actuarial model. With the Federal rate, we estimate aggregate Medicare capital payments

will increase by 5.48 percent in FY 2001. This increase is noticeably higher than last year's (3.64 percent) due to the combination of the increase in the number of hospital admissions, the increase in case-mix, and the increase in the Federal blend percentage from 90 percent to 100 percent and a decrease in the hospital-specific rate percentage from 10 percent to 0 percent for fully prospective payment hospitals.

TABLE III.—IMPACT OF PROPOSED CHANGES FOR FY 2001 ON PAYMENTS PER DISCHARGE

	Number of hospitals	Discharges	Adjusted federal payment	Average federal percent	Hospital specific payment	Hold harmless payment	Exceptions payment	Total payment	Percent change over FY 2000
FY 2000 Payments per Discharge:									
Low Cost Hospitals	3,194	6,723,732	\$574.73	90.41	\$30.18	\$2.95	\$7.84	\$615.72	.....
Fully Prospective	3,020	6,252,299	571.02	90.00	32.46	.....	7.45	610.93	.....
100% Federal Rate	159	438,006	635.95	100.00	.....	.....	3.42	639.38	.....
Hold Harmless	15	33,426	467.66	54.25	.....	594.40	139.14	1,201.21	.....
High Cost Hospitals	1,598	4,078,374	650.66	97.86	.....	19.26	13.05	682.97	.....
100% Federal Rate	1,383	3,717,412	665.24	100.00	.....	.....	6.98	672.22	.....
Hold Harmless	215	360,962	500.42	75.67	.....	217.62	75.58	793.63	.....
Total Hospitals	4,792	10,802,106	603.40	93.30	18.79	9.11	9.81	641.11	.....
FY 2001 Payments per Discharge:									
Low Cost Hospitals	3,194	6,835,654	\$637.91	99.74	.....	\$2.42	\$9.69	\$650.02	5.57
Fully Prospective	3,020	6,356,377	638.58	100.00	.....	.....	9.20	647.78	6.03
100% Federal Rate	159	445,296	638.34	100.00	.....	.....	4.35	642.69	0.52
Hold Harmless	15	33,981	506.60	60.11	.....	486.54	170.96	1,164.09	-3.09
High Cost Hospitals	1,598	4,146,181	653.32	98.38	.....	15.35	21.47	690.15	1.05
100% Federal Rate	1,394	3,793,349	664.47	100.00	.....	.....	10.65	675.12	0.43
Hold Harmless	204	352,832	533.52	80.86	.....	180.41	137.76	851.69	7.32
Total Hospitals	4,792	10,981,835	643.73	99.21	.....	7.30	14.14	665.17	3.75

We project that low capital cost hospitals paid under the fully prospective payment methodology will experience an average increase in payments per case of 6.03 percent, and high capital cost hospitals will experience an average increase of 1.05 percent. These results are due to the change in the blended percentages to the payment system to 100 percent adjusted Federal rate and 0 percent hospital-specific rate.

For hospitals paid under the fully prospective payment methodology, the Federal rate payment percentage will increase from 90 percent to 100 percent and the hospital-specific rate payment percentage will decrease from 10 to 0 percent in FY 2001. The Federal rate payment percentage for hospitals paid under the hold-harmless payment methodology is based on the hospital's ratio of new capital costs to total capital costs. The average Federal rate

payment percentage for high cost hospitals receiving a hold-harmless payment for old capital will increase from 75.67 percent to 80.86 percent. We estimate the percentage of hold-harmless hospitals paid based on 100 percent of the Federal rate will increase from 86.55 percent to 87.23 percent. We estimate that the few remaining high cost hold-harmless hospitals (204) will experience an increase in payments of 7.32 percent from FY 2000 to FY 2001. This increase reflects our estimate that exception payments per discharge will increase 82.27 percent from FY 2000 to FY 2001 for high cost hold-harmless hospitals. While we estimate that this group's regular hold-harmless payments for old capital will decline by 17.10 percent due to the retirement of old capital, we estimate that its high overall capital costs will cause an increase in these hospitals' exceptions payments from \$75.58 per

discharge in FY 2000 to \$137.76 per discharge in FY 2001. This is primarily due to the estimated decrease in outlier payments, which will cause an estimated increase in exceptions payments to cover unmet capital costs.

We estimate that the average hospital-specific rate payment per discharge will decrease from \$32.46 in FY 2000 to \$0.00 in FY 2001. This decrease is due to the decrease in the hospital-specific rate payment percentage from 10 percent in FY 2000 to 0 percent in FY 2001 for fully prospective payment hospitals.

We have made no changes in our exceptions policies for FY 2001. As a result, the minimum payment levels would be—

- 90 percent for sole community hospitals;
- 80 percent for urban hospitals with 100 or more beds and a disproportionate share patient percentage of 20.2 percent or more; or

• 70 percent for all other hospitals.
 We estimate that exceptions payments will increase from 1.53 percent of total capital payments in FY 2000 to 2.13 percent of payments in FY 2001. The projected distribution of the exception payments is shown in the chart below:

ESTIMATED FY 2001 EXCEPTIONS PAYMENTS

Type of hospital	Number of hospitals	Percent of exceptions payments
Low Capital Cost	201	43
High Capital Cost	214	57
Total	415	100

C. Cross-Sectional Comparison of Capital Prospective Payment Methodologies

Table IV presents a cross-sectional summary of hospital groupings by capital prospective payment methodology. This distribution is generated by our actuarial model.

TABLE IV.—DISTRIBUTION BY METHOD OF PAYMENT (HOLD-HARMLESS/FULLY PROSPECTIVE) OF HOSPITALS RECEIVING CAPITAL PAYMENTS (ESTIMATED FOR FY 2001)

	(1) Total No. of Hospitals	(2) Hold-harmless		(3) Percentage paid fully prospective rate
		Percentage paid hold-harmless (A)	Percentage paid fully federal (B)	
By Geographic Location:				
All hospitals	4,792	4.6	32.4	63.0
Large urban areas (populations over 1 million)	1,524	4.3	41.0	54.7
Other urban areas (populations of 1 million or fewer)	1,149	5.8	39.5	54.7
Rural areas	2,119	4.1	22.4	73.5
Urban hospitals	2,673	4.9	40.4	54.7
0-99 beds	658	6.2	33.9	59.9
100-199 beds	929	7.2	45.5	47.3
200-299 beds	543	3.3	41.4	55.2
300-499 beds	400	0.8	37.0	62.3
500 or more beds	143	2.1	42.0	55.9
Rural hospitals	2,119	4.1	22.4	73.5
0-49 beds	1,220	2.9	16.6	80.6
50-99 beds	531	6.8	26.7	66.5
100-149 beds	219	5.9	35.2	58.9
150-199 beds	81	2.5	25.9	71.6
200 or more beds	68	1.5	47.1	51.5
By Region:				
Urban by Region	2,673	4.9	40.4	54.7
New England	145	0.7	25.5	73.8
Middle Atlantic	408	2.9	34.8	62.3
South Atlantic	398	5.5	51.8	42.7
East North Central	454	4.2	29.7	66.1
East South Central	154	8.4	46.1	45.5
West North Central	182	6.0	36.8	57.1
West South Central	328	8.8	58.2	32.9
Mountain	124	4.8	48.4	46.8
Pacific	435	4.1	36.3	59.5
Puerto Rico	45	2.2	26.7	71.1
Rural by Region	2,119	4.1	22.4	73.5
New England	52	0.0	23.1	76.9
Middle Atlantic	78	5.1	19.2	75.6
South Atlantic	276	2.2	33.3	64.5
East North Central	279	3.9	16.5	79.6
East South Central	265	3.4	32.8	63.8
West North Central	491	3.3	14.5	82.3
West South Central	334	4.5	26.3	69.2
Mountain	200	9.5	15.0	75.5
Pacific	139	5.0	23.7	71.2
By Payment Classification:				
Large urban areas (populations over 1 million)	1,618	4.2	41.3	54.5
Other urban areas (populations of 1 million or fewer)	1,136	6.0	38.8	55.2
Rural areas	2,038	4.1	21.8	74.1
Teaching Status:				
Non-teaching	3,682	5.1	31.6	63.3
Fewer than 100 Residents	871	2.9	35.9	61.2
100 or more Residents	239	2.1	32.2	65.7
Disproportionate share hospitals (DSH):	2,988	4.7	28.3	67.0
By Geographic Location:				
All hospitals	4,792	4.6	32.4	63.0

TABLE IV.—DISTRIBUTION BY METHOD OF PAYMENT (HOLD-HARMLESS/FULLY PROSPECTIVE) OF HOSPITALS RECEIVING CAPITAL PAYMENTS (ESTIMATED FOR FY 2001)—Continued

	(1) Total No. of Hospitals	(2) Hold-harmless		(3) Percentage paid fully prospective rate
		Percentage paid hold- harmless (A)	Percentage paid fully federal (B)	
Non-DSH				
Urban DSH:				
100 or more beds	1,379	4.6	42.5	52.9
Less than 100 beds	70	4.3	25.7	70.0
Rural DSH:				
Sole Community (SCH/EACH)	149	5.4	20.1	74.5
Referral Center (RRC/EACH)	56	3.6	51.8	44.6
OTHER RURAL:				
100 OR MORE BEDS	48	.....	39.6	60.4
Less than 100 beds	102	2.0	23.5	74.5
Urban teaching and DSH:				
Both teaching and DSH	720	2.5	36.7	60.8
Teaching and no DSH	325	3.1	33.8	63.1
No teaching and DSH	729	6.7	46.6	46.6
No teaching and no DSH	980	6.0	40.3	53.7
Rural Hospital Types:				
Non special status hospitals	819	1.5	24.1	74.5
RRC/EACH	150	2.7	36.0	61.3
SCH/EACH	661	8.5	18.2	73.4
Medicare-dependent hospitals (MDH)	351	1.4	16.5	82.1
SCH, RRC and EACH	57	10.5	26.3	63.2
Type of Ownership:				
Voluntary	2,520	4.5	32.4	63.1
Proprietary	655	7.2	57.1	35.7
Government	1,093	4.1	19.2	76.7
Medicare Utilization as a Percent of Inpatient Days:				
0–25	369	5.4	27.6	66.9
25–50	1,820	4.3	35.1	60.7
50–65	1,882	4.7	31.2	64.1
Over 65	688	4.8	32.1	63.1

As we explain in Appendix B of this final rule, we were not able to use 96 of the 4,888 hospitals in our database due to insufficient (missing or unusable) data. Consequently, the payment methodology distribution is based on 4,792 hospitals. These data should be fully representative of the payment methodologies that will be applicable to hospitals.

The cross-sectional distribution of hospital by payment methodology is presented by: (1) geographic location; (2) region; and (3) payment classification. This provides an indication of the percentage of hospitals within a particular hospital grouping that will be paid under the fully prospective payment methodology and the hold-harmless payment methodology.

The percentage of hospitals paid fully Federal (100 percent of the Federal rate) as hold-harmless hospitals is expected to increase to 32.4 percent in FY 2001.

Table IV indicates that 63.0 percent of hospitals will be paid under the fully prospective payment methodology. (This figure, unlike the figure of 67 percent for low cost capital hospitals in the chart on "Capital Transition Payment Methodology for FY 2001," in section VII.B.2. of this impact analysis takes into account the effects of redeterminations. In other words, this figure does not include low cost hospitals that, following a hospital-specific rate

redetermination, are now paid under the hold-harmless methodology.) As expected, a relatively higher percentage of rural and governmental hospitals (74.1 percent and 76.7 percent, respectively by payment classification) are being paid under the fully prospective payment methodology. This is a reflection of their lower than average capital costs per case. In contrast, only 35.7 percent of proprietary hospitals are being paid under the fully prospective methodology. This is a reflection of their higher than average capital costs per case. (We found at the time of the August 30, 1991 final rule (56 FR 43430) that 62.7 percent of proprietary hospitals had a capital cost per case above the national average cost per case.)

D. Cross-Sectional Analysis of Changes in Aggregate Payments

We used our FY 2001 actuarial model to estimate the potential impact of our changes for FY 2001 on total capital payments per case, using a universe of 4,792 hospitals. The individual hospital payment parameters are taken from the best available data, including: the April 1, 2000 update to the provider-specific file, cost report data, and audit information supplied by intermediaries. In Table V we present the results of the cross-sectional analysis using the results of our actuarial model and the aggregate impact of the FY 2001 payment policies. Columns 3

and 4 show estimates of payments per case under our model for FY 2000 and FY 2001. Column 5 shows the total percentage change in payments from FY 2000 to FY 2001. Column 6 presents the percentage change in payments that can be attributed to Federal rate changes alone.

Federal rate changes represented in Column 6 include the 1.33 percent increase in the Federal rate, a 0.5 percent increase in case mix, changes in the adjustments to the Federal rate (for example, the effect of the new hospital wage index on the geographic adjustment factor), and reclassifications by the MGCRB. Column 5 includes the effects of the Federal rate changes represented in Column 6. Column 5 also reflects the effects of all other changes, including the change from 90 percent to 100 percent in the portion of the Federal rate for fully prospective hospitals, the hospital-specific rate update, changes in the proportion of new to total capital for hold-harmless hospitals, changes in old capital (for example, obligated capital put in use), hospital-specific rate redeterminations, and exceptions. The comparisons are provided by: (1) geographic location, (2) region, and (3) payment classification.

The simulation results show that, on average, capital payments per case can be expected to increase 3.8 percent in FY 2001. The results show that the effect of the Federal

rate change alone is to increase payments by 0.3 percent. In addition to the increase attributable to the Federal rate change, a 3.5 percent increase is attributable to the effects of all other changes.

Our comparison by geographic location shows an overall increase in payments to hospitals in all areas. This comparison also shows that urban and rural hospitals will experience slightly different rates of increase in capital payments per case (3.6 percent and 4.6 percent, respectively). This difference is due to the lower rate of increase for urban hospitals relative to rural hospitals (0.1 percent and 1.4 percent, respectively) from the Federal rate changes alone. Urban hospitals are actually projected to gain slightly more than rural hospitals (3.5 percent versus 3.2 percent, respectively) from the effects of all other changes.

All regions are estimated to receive increases in total capital payments per case, partly due to the increased share of payments that are based on the Federal rate (from 90 to 100 percent). Changes by region vary from a minimum of 2.6 percent increase (West South Central urban region) to a maximum of 7.4 percent increase (Pacific rural region).

By type of ownership, government hospitals are projected to have the largest rate of increase of total payment changes (4.5 percent, a 0.6 percent increase due to the Federal rate changes, and a 3.9 percent increase from the effects of all other changes). Payments to voluntary hospitals will increase 3.7 percent (a 0.3 percent increase due to Federal rate changes, and a 3.4 percent increase from the effects of all other changes) and payments to proprietary hospitals will increase 2.6 percent (a 0.1 percent decrease due to Federal rate changes, and a 2.7 percent increase from the effects of all other changes).

Section 1886(d)(10) of the Act established the MGRB. Hospitals may apply for reclassification for purposes of the standardized amount, wage index, or both, and for purposes of DSH for FYs 1999 through 2001. Although the Federal capital rate is not affected, a hospital's geographic classification for purposes of the operating standardized amount does affect a hospital's capital payments as a result of the large urban adjustment factor and the disproportionate share adjustment for urban hospitals with 100 or more beds. Reclassification for wage index purposes affects the geographic adjustment factor,

since that factor is constructed from the hospital wage index.

To present the effects of the hospitals being reclassified for FY 2001 compared to the effects of reclassification for FY 2000, we show the average payment percentage increase for hospitals reclassified in each fiscal year and in total. For FY 2001 reclassifications, we indicate those hospitals reclassified for standardized amount purposes only, for wage index purposes only, and for both purposes. The reclassified groups are compared to all other nonreclassified hospitals. These categories are further identified by urban and rural designation.

Hospitals reclassified for FY 2001 as a whole are projected to experience a 5.2 percent increase in payments (a 2.0 percent increase attributable to Federal rate changes and a 3.2 percent increase attributable to the effects of all other changes). Payments to nonreclassified hospitals will increase slightly less (3.8 percent) than reclassified hospitals (5.2 percent) overall. Payments to nonreclassified hospitals will increase less than reclassified hospitals due to the Federal rate changes (0.3 percent compared to 2.0 percent).

TABLE V.—COMPARISON OF TOTAL PAYMENTS PER CASE
[FY 2000 payments compared to FY 2001 payments]

	Number of hospitals	Average FY 2000 payments/case	Average FY 2001 payments/case	All changes	Portion attributable to federal rate change
By Geographic Location:					
All hospitals	4,792	641	665	3.8	0.3
Large urban areas (populations over 1 million)	1,524	745	772	3.6	0.0
Other urban areas (populations of 1 million or fewer)	1,149	629	653	3.7	0.4
Rural areas	2,119	429	449	4.6	1.4
Urban hospitals	2,673	695	720	3.6	0.1
0-99 beds	658	499	518	3.8	0.6
100-199 beds	929	610	630	3.4	0.3
200-299 beds	543	662	684	3.4	0.3
300-499 beds	400	726	754	3.8	-0.1
500 or more beds	143	889	923	3.8	0.0
Rural hospitals	2,119	429	449	4.6	1.4
0-49 beds	1,220	358	378	5.8	2.0
50-99 beds	531	409	429	4.9	1.4
100-149 beds	219	444	461	3.8	1.0
150-199 beds	81	467	489	4.7	1.8
200 or more beds	68	526	547	3.9	1.0
By Region:					
Urban by Region	2,673	695	720	3.6	0.1
New England	145	723	751	3.9	-0.1
Middle Atlantic	408	769	797	3.7	-0.1
South Atlantic	398	674	693	2.9	-0.2
East North Central	454	660	692	4.9	0.8
East South Central	154	638	660	3.4	-0.3
West North Central	182	691	715	3.4	0.1
West South Central	328	661	678	2.6	0.8
Mountain	124	687	723	5.3	0.3
Pacific	435	780	804	3.1	-0.5
Puerto Rico	45	293	311	6.1	2.3
Rural by Region	2,119	429	449	4.6	1.4
New England	52	525	544	3.6	0.2
Middle Atlantic	78	450	469	4.1	0.8
South Atlantic	276	443	462	4.4	1.8
East North Central	279	432	459	6.2	1.6
East South Central	265	395	411	4.2	1.5
West North Central	491	420	440	4.6	1.5
West South Central	334	391	404	3.4	1.0
Mountain	200	461	478	3.7	1.1

TABLE V.—COMPARISON OF TOTAL PAYMENTS PER CASE—Continued
[FY 2000 payments compared to FY 2001 payments]

	Number of hospitals	Average FY 2000 payments/case	Average FY 2001 payments/case	All changes	Portion attributable to federal rate change
Pacific	139	506	543	7.4	1.4
By Payment Classification:					
All hospitals	4,792	641	665	3.8	0.3
Large urban areas (populations over 1 million)	1,618	736	763	3.6	0.1
Other urban areas (populations of 1 million or fewer)	1,136	628	650	3.5	0.2
Rural areas	2,038	425	446	4.8	1.5
Teaching Status:					
Non-teaching	3,682	530	549	3.5	0.6
Fewer than 100 Residents	871	669	694	3.7	0.3
100 or more Residents	239	979	1,022	4.4	-0.2
Urban DSH:					
100 or more beds	1,379	733	759	3.6	0.1
Less than 100 beds	70	570	604	5.9	0.5
Rural DSH:					
Sole Community (SCH/EACH)	149	382	399	4.5	2.1
Referral Center (RRC/EACH)	56	490	506	3.2	1.0
Other Rural:					
100 or more beds	48	383	401	4.9	2.3
Less than 100 beds	102	343	360	5.0	1.9
Urban teaching and DSH:					
Both teaching and DSH	720	807	838	3.8	0.1
Teaching and no DSH	325	699	728	4.1	0.2
No teaching and DSH	729	603	621	3.1	0.2
No teaching and no DSH	980	570	588	3.0	0.2
Rural Hospital Types:					
Non special status hospitals	819	376	394	5.0	1.7
RRC/EACH	150	493	515	4.3	1.4
SCH/EACH	661	425	448	5.5	1.5
Medicare-dependent hospitals (MDH)	351	356	377	5.7	1.9
SCH, RRC and EACH	57	499	516	3.5	0.6
Hospitals Reclassified by the Medicare Geographic Classification Review Board:					
Reclassification Status During FY00 and FY01:					
Reclassified During Both FY00 and FY01	377	546	569	4.1	0.9
Reclassified During FY01 Only	149	531	579	9.1	6.0
Reclassified During FY00 Only	131	553	546	-1.2	-3.1
FY01 Reclassifications:					
All Reclassified Hospitals	526	543	571	5.2	2.0
All Nonreclassified Hospitals	4,268	654	679	3.8	0.3
All Urban Reclassified Hospitals	88	701	746	6.3	2.3
Urban Nonreclassified Hospitals	2,559	696	720	3.5	0.0
All Reclassified Rural Hospitals	438	488	510	4.7	1.9
Rural Nonreclassified Hospitals	1,681	386	404	4.6	1.0
Other Reclassified Hospitals (Section 1886(D)(8)(B))	26	463	473	2.1	0.7
Type of Ownership:					
Voluntary	2,520	655	680	3.7	0.3
Proprietary	655	626	643	2.6	-0.1
Government	1,093	576	602	4.5	0.6
Medicare Utilization as a Percent of Inpatient Days:					
0-25	369	801	838	4.7	0.1
25-50	1,820	736	763	3.7	0.0
50-65	1,882	568	590	3.8	0.6
Over 65	688	512	528	3.2	0.7

Appendix B: Technical Appendix on the Capital Cost Model and Required Adjustments

Under section 1886(g)(1)(A) of the Act, we set capital prospective payment rates for FY 1992 through FY 1995 so that aggregate prospective payments for capital costs were projected to be 10 percent lower than the amount that would have been payable on a reasonable cost basis for capital-related costs in that year. To implement this requirement,

we developed the capital acquisition model to determine the budget neutrality adjustment factor. Even though the budget neutrality requirement expired effective with FY 1996, we must continue to determine the recalibration and geographic reclassification budget neutrality adjustment factor and the reduction in the Federal and hospital-specific rates for exceptions payments.

To determine these factors, we must continue to project capital costs and payments.

We used the capital acquisition model from the start of prospective payments for capital costs through FY 1997. We now have 7 years of cost reports under the capital prospective payment system. For FY 1998, we developed a new capital cost model to replace the capital acquisition model. This revised model makes use of the data from these cost reports.

The following cost reports are used in the capital cost model for this final rule: the March 31, 2000 update of the cost reports for

PPS-IX (cost reporting periods beginning in FY 1992), PPS-X (cost reporting periods beginning in FY 1993), PPS-XI (cost reporting periods beginning in FY 1994), PPS-XII (cost reporting periods beginning in FY 1995), PPS-XIII (cost reporting periods beginning in FY 1996), PPS-XIV (cost reporting periods beginning in FY 1997), and PPS-XV (cost reporting periods beginning in FY 1998). In addition, to model payments, we use the April 1, 2000 update of the provider-specific file, and the March 1994 update of the intermediary audit file.

Since hospitals under alternative payment system waivers (that is, hospitals in Maryland) are currently excluded from the capital prospective payment system, we excluded these hospitals from our model.

We developed FY 1992 through FY 2000 hospital-specific rates using the provider-specific file and the intermediary audit file. (We used the cumulative provider-specific file, which includes all updates to each hospital's records, and chose the latest record for each fiscal year.) We checked the consistency between the provider-specific file and the intermediary audit file. We ensured that increases in the hospital-specific rates were at least as large as the published updates (increases) for the hospital-specific rates each year. We were able to match hospitals to the files as shown in the following table:

Source	Number of hospitals
Provider-Specific File Only	173
Provider-Specific and Audit File	4,715
Total	4,888

One hundred forty-three of the 4,888 hospitals had unusable or missing data, or had no cost reports available. For 42 of the 143 hospitals, we were unable to determine a hospital-specific rate from the available cost reports. However, there was adequate cost information to determine that these hospitals were paid under the hold-harmless methodology. Since the hospital-specific rate is not used to determine payments for hospitals paid under the hold-harmless methodology, there was sufficient cost report information available to include these 42 hospitals in the analysis. We were able to estimate hospital-specific amounts for five additional hospitals from the cost reports as shown in the following table:

Cost report	Number of hospitals
PPS-9	1
PPS-12	2
PPS-14	1
PPS-15	1
Total	5

Hence we were able to use 47 of the 143 hospitals. We used 4,792 hospitals for the analysis. Ninety-six hospitals could not be used in the analysis because of insufficient information. These hospitals account for less than 0.5 percent of admissions. Therefore,

any effects from the elimination of their cost report data should be minimal.

We analyzed changes in capital-related costs (depreciation, interest, rent, leases, insurance, and taxes) reported in the cost reports. We found a wide variance among hospitals in the growth of these costs. For hospitals with more than 100 beds, the distribution and mean of these cost increases were different for large changes in bed-size (greater than ±20 percent). We also analyzed changes in the growth in old capital and new capital for cost reports that provided this information. For old capital, we limited the analysis to decreases in old capital. We did this since the opportunity for most hospitals to treat "obligated" capital put into service as old capital has expired. Old capital costs should decrease as assets become fully depreciated and as interest costs decrease as the loan is amortized.

The new capital cost model separates the hospitals into three mutually exclusive groups. Hold-harmless hospitals with data on old capital were placed in the first group. Of the remaining hospitals, those hospitals with fewer than 100 beds comprise the second group. The third group consists of all hospitals that did not fit into either of the first two groups. Each of these groups displayed unique patterns of growth in capital costs. We found that the gamma distribution is useful in explaining and describing the patterns of increase in capital costs. A gamma distribution is a statistical distribution that can be used to describe patterns of growth rates, with the greatest proportion of rates being at the low end. We use the gamma distribution to estimate individual hospital rates of increase as follows:

(1) For hold-harmless hospitals, old capital cost changes were fitted to a truncated gamma distribution, that is, a gamma distribution covering only the distribution of cost decreases. New capital costs changes were fitted to the entire gamma distribution, allowing for both decreases and increases.

(2) For hospitals with fewer than 100 beds (small), total capital cost changes were fitted to the gamma distribution, allowing for both decreases and increases.

(3) Other (large) hospitals were further separated into three groups:

- Bed-size decreases over 20 percent (decrease).
- Bed-size increases over 20 percent (increase).
- Other (no change).

Capital cost changes for large hospitals were fitted to gamma distributions for each bed-size change group, allowing for both decreases and increases in capital costs. We analyzed the probability distribution of increases and decreases in bed size for large hospitals. We found the probability somewhat dependent on the prior year change in bed size and factored this dependence into the analysis. Probabilities of bed-size change were determined. Separate sets of probability factors were calculated to reflect the dependence on prior year change in bed size (increase, decrease, and no change).

The gamma distributions were fitted to changes in aggregate capital costs for the

entire hospital. We checked the relationship between aggregate costs and Medicare per discharge costs. For large hospitals, there was a small variance, but the variance was larger for small hospitals. Since costs are used only for the hold-harmless methodology and to determine exceptions, we decided to use the gamma distributions fitted to aggregate cost increases for estimating distributions of cost per discharge increases.

Capital costs per discharge calculated from the cost reports were increased by random numbers drawn from the gamma distribution to project costs in future years. Old and new capital were projected separately for hold-harmless hospitals. Aggregate capital per discharge costs were projected for all other hospitals. Because the distribution of increases in capital costs varies with changes in bed size for large hospitals, we first projected changes in bed size for large hospitals before drawing random numbers from the gamma distribution. Bed-size changes were drawn from the uniform distribution with the probabilities dependent on the previous year bed-size change. The gamma distribution has a shape parameter and a scaling parameter. (We used different parameters for each hospital group, and for old and new capital.)

We used discharge counts from the cost reports to calculate capital cost per discharge. To estimate total capital costs for FY 1999 (the MedPAR data year) and later, we use the number of discharges from the MedPAR data. Some hospitals had considerably more discharges in FY 1999 than in the years for which we calculated cost per discharge from the cost report data. Consequently, a hospital with few cost report discharges would have a high capital cost per discharge, since fixed costs would be allocated over only a few discharges. If discharges increase substantially, the cost per discharge would decrease because fixed costs would be allocated over more discharges. If the projection of capital cost per discharge is not adjusted for increases in discharges, the projection of exceptions would be overstated. We address this situation by recalculating the cost per discharge with the MedPAR discharges if the MedPAR discharges exceed the cost report discharges by more than 20 percent. We do not adjust for increases of less than 20 percent because we have not received all of the FY 1999 discharges, and we have removed some discharges from the analysis because they are statistical outliers. This adjustment reduces our estimate of exceptions payments, and consequently, the reduction to the Federal rate for exceptions is smaller. We will continue to monitor our modeling of exceptions payments and make adjustments as needed.

The average national capital cost per discharge generated by this model is the combined average of many randomly generated increases. This average must equal the projected average national capital cost per discharge, which we projected separately (outside this model). We adjusted the shape parameter of the gamma distributions so that the modeled average capital cost per discharge matches our projected capital cost per discharge. The shape parameter for old capital was not adjusted since we are

modeling the aging of "existing" assets. This model provides a distribution of capital costs among hospitals that is consistent with our aggregate capital projections.

Once each hospital's capital-related costs are generated, the model projects capital payments. We use the actual payment parameters (for example, the case-mix index and the geographic adjustment factor) that are applicable to the specific hospital.

To project capital payments, the model first assigns the applicable payment methodology (fully prospective or hold-harmless) to the hospital as determined from the provider-specific file and the cost reports. The model simulates Federal rate payments using the assigned payment parameters and hospital-specific estimated outlier payments. The case-mix index for a hospital is derived from the FY 1999 MedPAR file using the FY 2001 DRG relative weights included in section VI. of the Addendum to this final rule. The case-mix index is increased each year after FY 1999 based on analysis of past experiences in case-mix increases. Based on analysis of recent case-mix increases, we estimate that case-mix will increase 0.0 percent in FY 2000. We project that case-mix will increase 0.0 percent in FY 2001. (Since we are using FY 1999 cases for our analysis, the FY 1999 increase in case-mix has no effect on projected capital payments.)

Changes in geographic classification and revisions to the hospital wage data used to establish the hospital wage index affect the geographic adjustment factor. Changes in the

DRG classification system and the relative weights affect the case-mix index.

Section 412.308(c)(4)(i) requires that the estimated aggregate payments for the fiscal year, based on the Federal rate after any changes resulting from DRG reclassifications and recalibration and the geographic adjustment factor, equal the estimated aggregate payments based on the Federal rate that would have been made without such changes. For FY 2000, the budget neutrality adjustment factors were 1.00142 for the national rate and 1.00134 for the Puerto Rico rate.

Since we implemented a separate geographic adjustment factor for Puerto Rico, we applied separate budget neutrality adjustments for the national geographic adjustment factor and the Puerto Rico geographic adjustment factor. We applied the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. Separate adjustments were unnecessary for FY 1998 and earlier since the geographic adjustment factor for Puerto Rico was implemented in FY 1998.

To determine the factors for FY 2001, we first determined the portions of the Federal national and Puerto Rico rates that would be paid for each hospital in FY 2001 based on its applicable payment methodology. Using our model, we then compared, separately for the national rate and the Puerto Rico rate, estimated aggregate Federal rate payments based on the FY 2000 DRG relative weights and the FY 2000 geographic adjustment factor to estimated aggregate Federal rate

payments based on the FY 2000 relative weights and the FY 2001 geographic adjustment factor. In making the comparison, we held the FY 2001 Federal rate portion constant and set the other budget neutrality adjustment factor and the exceptions reduction factor to 1.00. To achieve budget neutrality for the changes in the national geographic adjustment factor, we applied an incremental budget neutrality adjustment of 0.99782 for FY 2001 to the previous cumulative FY 2000 adjustment of 1.00142, yielding a cumulative adjustment of 0.99924 through FY 2001. For the Puerto Rico geographic adjustment factor, we applied an incremental budget neutrality adjustment of 1.00365 for FY 2001 to the previous cumulative FY 2000 adjustment of 1.00134, yielding a cumulative adjustment of 1.00499 through FY 2001. We then compared estimated aggregate Federal rate payments based on the FY 2000 DRG relative weights and the FY 2001 geographic adjustment factors to estimated aggregate Federal rate payments based on the FY 2001 DRG relative weights and the FY 2001 geographic adjustment factors. The incremental adjustment for DRG classifications and changes in relative weights would be 1.00009 nationally and for Puerto Rico. The cumulative adjustments for DRG classifications and changes in relative weights and for changes in the geographic adjustment factors through FY 2001 would be 0.99933 nationally and 1.00508 for Puerto Rico. The following table summarizes the adjustment factors for each fiscal year:

BUDGET NEUTRALITY ADJUSTMENT FOR DRG RECLASSIFICATIONS AND RECALIBRATION AND THE GEOGRAPHIC ADJUSTMENT FACTORS

Fiscal year	National				Puerto Rico			
	Incremental adjustment			Cumulative	Incremental adjustment			Cumulative
	Geographic adjustment factor	DRG reclassifications and recalibration	Combined		Geographic adjustment factor	DRG reclassifications and recalibration	Combined	
1992				1.00000				
1993			0.99800	0.99800				
1994			1.00531	1.00330				
1995			0.99980	1.00310				
1996			0.99940	1.00250				
1997			0.99873	1.00123				
1998			0.99892	1.00015				1.00000
1999	0.99944	1.00335	1.00279	1.00294	0.99898	1.00335	1.00233	1.00233
2000	0.99857	0.99991	0.99848	1.00142	0.99910	0.99991	0.99901	1.00134
2001	0.99782	1.00009	0.99791	0.99933	1.00365	1.00009	1.00374	1.00508

The methodology used to determine the recalibration and geographic (DRG/GAF) budget neutrality adjustment factor is similar to that used in establishing budget neutrality adjustments under the prospective payment system for operating costs. One difference is that, under the operating prospective payment system, the budget neutrality adjustments for the effect of geographic reclassifications are determined separately from the effects of other changes in the hospital wage index and the DRG relative weights. Under the capital prospective payment system, there is a single DRG/GAF budget neutrality adjustment factor (the national rate and the Puerto Rico rate are

determined separately) for changes in the geographic adjustment factor (including geographic reclassification) and the DRG relative weights. In addition, there is no adjustment for the effects that geographic reclassification has on the other payment parameters, such as the payments for serving low-income patients or the large urban add-on payments.

In addition to computing the DRG/GAF budget neutrality adjustment factor, we used the model to simulate total payments under the prospective payment system.

Additional payments under the exceptions process are accounted for through a reduction in the Federal and hospital-specific

rates. Therefore, we used the model to calculate the exceptions reduction factor. This exceptions reduction factor ensures that aggregate payments under the capital prospective payment system, including exceptions payments, are projected to equal the aggregate payments that would have been made under the capital prospective payment system without an exceptions process. Since changes in the level of the payment rates change the level of payments under the exceptions process, the exceptions reduction factor must be determined through iteration.

In the August 30, 1991 final rule (56 FR 43517), we indicated that we would publish each year the estimated payment factors

generated by the model to determine payments for the next 5 years. The table below provides the actual factors for FYs 1992 through 2000, the final factors for FY 2001, and the estimated factors that would be applicable through FY 2005. We caution that these are estimates for FYs 2002 and later,

and are subject to revisions resulting from continued methodological refinements, receipt of additional data, and changes in payment policy. We note that in making these projections, we have assumed that the cumulative national DRG/GAF budget neutrality adjustment factor will remain at

0.99933 (1.00508 for Puerto Rico) for FY 2001 and later because we do not have sufficient information to estimate the change that will occur in the factor for years after FY 2001.

The projections are as follows:

Fiscal year	Update factor	Exceptions reduction factor	Budget neutrality factor	DRG/GAF adjustment factor ¹	Outlier adjustment factor	Federal rate adjustment	Federal rate (after outlier reduction)
1992	N/A	0.9813	0.9602		.9497		415.59
1993	6.07	.9756	.9162	.9980	.9496		417.29
1994	3.04	.9485	.8947	1.0053	.9454	² .9260	378.34
1995	3.44	.9734	.8432	.9998	.9414		376.83
1996	1.20	.9849	N/A	.9994	.9536	³ .9972	461.96
1997	0.70	.9358	N/A	.9987	.9481		438.92
1998	0.90	.9659	N/A	.9989	.9382	⁴ .8222	371.51
1999	0.10	.9783	N/A	1.0028	.9392		378.10
2000	0.30	.9730	N/A	.9985	.9402		377.03
2001	0.90	.9785	N/A	.9979	.9409		382.03
2002	0.90	⁶ 1.0000	N/A	⁵ 1.0000	⁵ .9409		393.94
2003	0.90	⁶ 1.0000	N/A	1.0000	.9409	⁴ 1.0255	407.64
2004	0.80	⁶ 1.0000	N/A	1.0000	.9409		410.90
2005	0.90	⁶ 1.0000	N/A	1.0000	.9409		414.60

¹ Note: The incremental change over the previous year.

² Note: OBRA 1993 adjustment.

³ Note: Adjustment for change in the transfer policy.

⁴ Note: Balanced Budget Act of 1997 adjustment.

⁵ Note: Future adjustments are, for purposes of this projection, assumed to remain at the same level.

⁶ Note: We are unable to estimate exceptions payments for the year under the special exceptions provision (§412.348(g) of the regulations) because the regular exceptions provision (§412.348(e)) expires.

Appendix C: Recommendation of Update Factors for Operating Cost Rates of Payment for Inpatient Hospital Services

I. Background

Several provisions of the Act address the setting of update factors for inpatient services furnished in FY 2001 by hospitals subject to the prospective payment system and by hospitals or units excluded from the prospective payment system. Section 1886(b)(3)(B)(i)(XVI) of the Act sets the FY 2001 percentage increase in the operating cost standardized amounts equal to the rate of increase in the hospital market basket minus 1.1 percent for prospective payment hospitals in all areas. Section 1886(b)(3)(B)(iv) of the Act sets the FY 2001 percentage increase in the hospital-specific rates applicable to sole community and Medicare-dependent, small rural hospitals equal to the rate set forth in section 1886(b)(3)(B)(i) of the Act. For Medicare-dependent, small rural hospitals, the percentage increase is the same update factor as all other hospitals subject to the prospective payment system, or the rate of increase in the market basket minus 1.1 percentage points. Section 406 of Public Law 106-113 amended section 1886(b)(3)(B)(i) of the Act to provide that, for sole community hospitals, the rate of increase for FY 2001 is equal to the market basket percentage increase.

Under section 1886(b)(3)(B)(ii) of the Act, the FY 2001 percentage increase in the rate-of-increase limits for hospitals and units excluded from the prospective payment system ranges from the percentage increase in the excluded hospital market basket less a percentage between 0 and 2.5 percentage points, depending on the hospital's or unit's costs in relation to its limit for the most

recent cost reporting period for which information is available, or 0 percentage point if costs do not exceed two-thirds of the limit.

In accordance with section 1886(d)(3)(A) of the Act, we are updating the standardized amounts, the hospital-specific rates, and the rate-of-increase limits for hospitals and units excluded from the prospective payment system as provided in section 1886(b)(3)(B) of the Act. Based on the second quarter 2000 forecast of the FY 2001 market basket increase of 3.4 percent for hospitals and units subject to the prospective payment system, the update to the standardized amounts is 2.3 percent (that is, the market basket rate of increase minus 1.1 percent percentage points) for hospitals in both large urban and other areas. The update to the hospital-specific rate applicable to Medicare-dependent, small rural hospitals is also 2.3 percent. The update to the hospital-specific rate applicable to sole community hospitals is 3.4 percent. The update for hospitals and units excluded from the prospective payment system can range from the percentage increase in the excluded hospital market basket (currently estimated at 3.4 percent) minus a percentage between 0 and 2.5 percentage points, or 0 percentage point, resulting in an increase in the rate-of-increase limit between 0.9 and 3.4 percent, or zero percent (see section V of the Addendum of this final rule).

Section 1886(e)(4) of the Act requires that the Secretary, taking into consideration the recommendations of the Medicare Payment Advisory Commission (MedPAC), recommend update factors for each fiscal year that take into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. Under section 1886(e)(5) of the Act, we are required to publish the update factors recommended

under section 1886(e)(4) of the Act. Accordingly, we published the FY 2001 update factors recommended by the Secretary in Appendix D of the May 5, 2000 proposed rule (65 FR 26434). In its March 1, 2000 report, MedPAC did not make a specific update recommendation for FY 2001 payments for Medicare acute inpatient hospitals. However, in its June 1, 2000 report, which was issued after the May 5, 2000 proposed rule, MedPAC recommended a combined operating and capital update for hospital inpatient prospective payment system payments for FY 2001. We describe the basis of our FY 2001 update recommendation in Appendix D of the May 5, 2000 proposed rule at 65 FR 26434. Our responses to the MedPAC recommendations concerning the update factors for FY 2001 are discussed below in section II of this Appendix.

II. Secretary's Recommendations

Under section 1886(e)(4) of the Act, in the May 5, 2000 proposed rule, we recommended that an appropriate update factor for the standardized amounts was 2.0 percentage points for hospitals located in large urban and other areas. We also recommended an update of 2.0 percentage points to the hospital-specific rate for Medicare-dependent, small rural hospitals. In addition, we recommended an update of 3.1 percentage points to the hospital-specific rate for sole community hospitals. We believed these recommended update factors would ensure that Medicare acts as a prudent purchaser and provide incentives to hospitals for increased efficiency, thereby contributing to the solvency of the Medicare Part A Trust Fund.

Also in the proposed rule, we recommended that hospitals excluded from the prospective payment system receive an update of between 0.6 and 3.1 percentage

points, or zero percentage points. The update for excluded hospitals and units is equal to the increase in the excluded hospital operating market basket less a percentage between 0 and 2.5 percentage points, or 0 percentage points, depending on the hospital's or unit's costs in relation to its rate-of-increase limit for the most recent cost reporting period for which information is available. For the proposed rule, the market basket rate of increase for excluded hospitals and units was forecast at 3.1 percent.

III. MedPAC Recommendations for Updating the Prospective Payment System Operating Standardized Amounts

In its June 2000 Report to Congress, MedPAC presented a combined operating and capital update for hospital inpatient prospective payment system payments for FY 2001 and recommended that Congress implement a single combined (operating and capital) prospective payment system rate. With the end of the transition to fully prospective capital payments ending with FY 2001, both operating and capital prospective system payments will be made using standard Federal rates adjusted by hospital specific payment variables. Currently, section 1886(b)(3)(B)(i)(XVI) of the Act sets forth the FY 2001 percentage increase in the prospective payment system operating cost standardized amounts. The prospective payment system capital update is set under the framework established by the Secretary outlined in § 412.308(c)(1).

For FY 2001, MedPAC's update framework supports a combined operating and capital update for hospital inpatient prospective payment system payments of 3.5 percent to 4.0 percent (or between the increase in the combined operating and capital market basket plus 0.6 percentage points and the increase in the combined operating and capital market basket plus 1.1 percentage points). MedPAC also notes that while the number of hospitals with negative inpatient hospital margins have increased in FY 1998 (most likely as the result of the implementation of Public Law 105-33), overall high inpatient Medicare margins generally offset hospital losses on other lines of Medicare services. MedPAC continues to project positive (greater than 11 percentage points) Medicare inpatient hospital margins through FY 2002.

MedPAC's FY 2001 combined operating and capital update framework uses a weighted average of HCFA's forecasts of the operating (prospective payment system input price index) and capital (CIPI) market baskets. This combined market basket was used to develop an estimate of the change in overall operating and capital prices. MedPAC calculated a combined market basket forecast by weighting the operating market basket forecast by 0.92 and the capital market basket forecast by 0.08, since operating costs are estimated to represent 92 percent of total hospital costs (capital costs are estimated to represent the remaining 8 percent of total hospital costs). MedPAC's combined market basket for FY 2001 is estimated to increase by 2.9 percent, based on HCFA's March 2000 forecasted operating market basket increase of 3.1 percent and HCFA's March 2000

forecasted capital market basket increase of 0.9 percent.

Response: As we stated in the May 5, 2000 proposed rule (65 FR 26317), we responded to a similar comment in the July 30, 1999 final rule (64 FR 41552), the July 31, 1998 final rule (63 FR 41013), and the September 1, 1995 final rule (60 FR 45816). In those rules, we stated that our long-term goal was to develop a single update framework for operating and capital prospective payments. However, we have not yet developed such a single framework as the actual operating system update has been determined by Congress through FY 2002. In the meantime, we intend to maintain as much consistency as possible with the current operating framework in order to facilitate the eventual development of a unified framework. We maintain our goal of combining the update frameworks at the end of the 10-year capital transition period (the end of FY 2001) and may examine combining the payment systems post-transition. Because of the similarity of the update frameworks, we believe that they could be combined with little difficulty.

The update framework analysis is a largely empirical process carried out by HCFA that quantifies changes in the hospital productivity, scientific and technological advances, practice pattern changes, hospital case mix, the effects of reclassification on recalibration, and forecast error correction. The update framework suggests an update for the prospective payment system operating standardized amounts ranging from of 2.4 percent (market basket minus 1 percent) to 2.9 percent (market basket minus 0.5 percent) is supported by the analyses outlined below.

A. Productivity

Service level productivity is defined as the ratio of total service output to full-time equivalent employees (FTEs). While we recognize that productivity is a function of many variables (for example, labor, nonlabor material, and capital inputs), we use a labor productivity measure since this update framework applies to operating payment. To recognize that we are apportioning the short-run output changes to the labor input and not considering the nonlabor inputs, we weight our productivity measure for operating costs by the share of direct labor services in the market basket to determine the expected effect on cost per case.

Our recommendation for the service productivity component is based on historical trends in productivity and total output for both the hospital industry and the general economy, and projected levels of future hospital service output. MedPAC's predecessor, the Prospective Payment Assessment Commission (ProPAC), estimated cumulative service productivity growth to be 4.9 percent from 1985 through 1989, or 1.2 percent annually. At the same time, ProPAC estimated total output growth at 3.4 percent annually, implying a ratio of service productivity growth to output growth of 0.35.

As stated in the proposed rule, since it was not possible at that time to develop a productivity measure specific to Medicare patients, we examined productivity (output per hour) and output (gross domestic

product) for the economy. Depending on the exact time period, annual changes in productivity range from 0.3 to 0.35 percent of the change in output (that is, a 1.0 percent increase in output would be correlated with a 0.3 to 0.35 percent change in output per hour).

Under our framework, the recommended update is based in part on expected productivity—that is, projected service output during the year, multiplied by the historical ratio of service productivity to total service output, multiplied by the share of labor in total operating inputs, as calculated in the hospital market basket. This method estimates an expected labor productivity improvement in the same proportion to expected total service growth that has occurred in the past and assumes that, at a minimum, growth in FTEs changes proportionally to the growth in total service output. Thus, the recommendation allows for unit productivity to be smaller than the historical averages in years that output growth is relatively low and larger in years that output growth is higher than the historical averages. Based on the above estimates from both the hospital industry and the economy, we have chosen to employ the range of ratios of productivity change to output change of 0.30 to 0.35.

The expected change in total hospital service output is the product of projected growth in total admissions (adjusted for outpatient usage), projected real case-mix growth, expected quality-enhancing intensity growth, and net of expected decline in intensity due to reduction of cost-ineffective practice. Case-mix growth and intensity numbers for Medicare are used as proxies for those of the total hospital, since case-mix increases (used in the intensity measure as well) are unavailable for non-Medicare patients. Thus, expected output growth is simply the sum of the expected change in intensity (0.0 percent), projected admissions change (1.6 percent for FY 2001), and projected real case-mix growth (0.5 percent), or 2.1 percent. The share of direct labor services in the market basket (consisting of wages, salaries, and employee benefits) is 61.4 percent.

Multiplying the expected change in total hospital service output (2.1 percent) by the ratio of historical service productivity change to total service growth of 0.30 to 0.35 and by the direct labor share percentage 61.4, provides our productivity standard of -0.5 to -0.4 percent. In past years, MedPAC made an adjustment for productivity improvement to reflect the level of improvement in the production of health care services, without affecting the quality of those services. Typically, MedPAC made a downward adjustment in their framework to reflect expected improvements in hospital productivity. In their FY 2001 combined update framework, MedPAC did not make an adjustment for productivity. Instead, MedPAC believes that the costs associated with scientific and technological advances should be financed partially through improvements in hospital productivity. As a result, MedPAC offset its adjustment for scientific and technological advances by a fixed standard of expected productivity

growth of 0.5 percent for FY 2001. Our productivity adjustment of -0.5 to -0.4 percent is within the range of MedPAC's fixed standard of expected productivity growth of 0.5 percent used to offset its scientific and technological advances adjustment for FY 2001.

B. Intensity

We base our intensity standard on the combined effect of three separate factors: changes in the use of quality enhancing services, changes in the use of services due to shifts in within-DRG severity, and changes in the use of services due to reductions of cost-ineffective practices. For FY 2001, we recommended an adjustment of 0.0 percent. The basis of this recommendation is discussed below. We have no empirical evidence that accurately gauges the level of quality-enhancing technology changes. A study published in the Winter 1992 issue of the *Health Care Financing Review*, "Contributions of case mix and intensity change to hospital cost increases" (pp. 151-163), suggests that one-third of the intensity change is attributable to high-cost technology. The balance was unexplained but the authors speculated that it is attributable to fixed costs in service delivery.

Typically, a specific new technology increases cost in some uses and decreases cost in others. Concurrently, health status is improved in some situations while in other situations it may be unaffected or even worsened using the same technology. It is difficult to separate out the relative significance of each of the cost-increasing effects for individual technologies and new technologies.

Other things being equal, per-discharge fixed costs tend to fluctuate in inverse proportion to changes in volume. Fixed costs exist whether patients are treated or not. If volume is declining, per-discharge fixed costs will rise, but the reverse is true if volume is increasing.

Following methods developed by HCFA's Office of the Actuary for deriving hospital output estimates from total hospital charges, we have developed Medicare-specific intensity measures based on a 5-year average using FYs 1995 through 1999 MedPAR billing data. Case-mix constant intensity is calculated as the change in total Medicare charges per discharge adjusted for changes in the average charge per unit of service as measured by the CPI for hospital and related services and changes in real case-mix. Thus, in order to measure changes in intensity, one must measure changes in real case-mix.

For FYs 1995 through 1999, observed case-mix index change ranged from a low of -0.3 percent to a high of 1.7 percent, with a 5-year average change of 0.6 percent. Based on evidence from past studies of case-mix change, we estimate that real case-mix change fluctuates between 1.0 and 1.4 percent and the observed values generally fall in this range, although some years the figures fall outside this range. The average percentage change in charge per discharge was 3.6 percent and the average annual change in the CPI for hospital and related services was 4.1 percent. Dividing the change in charge per discharge by the quantity of the

real case-mix index change and the CPI for hospital and related services yields an average annual change in intensity of -1.9 percent. Assuming the technology/fixed cost ratio still holds (.33), technology would account for a -0.6 percent annual decline while fixed costs would account for a -1.3 percent annual decline. The decline in fixed costs per discharge makes intuitive sense as volume, measured by total discharges, has increased during the period. In the past, we have not recommended a negative intensity adjustment. Although we did not recommend a negative adjustment for FY 2001, we reflected the possible range that such a negative adjustment could span, based on our analysis. Accordingly, for FY 2001, we recommended an intensity adjustment between 0 percent and -0.6 percent.

MedPAC does not make an adjustment for intensity per se, but its combined update recommendation for FY 2001 includes two categories that we consider to be comparable with our intensity recommendation. MedPAC is recommending a 0.0 to 0.5 percent update for scientific and technological advances to account for anticipated uses of emerging technologies that enhance the quality of hospital services, but increase costs of hospital care. The Commission recognized an allowance for science and technological advances of 0.5 percent to 1.0 percent. However, with their productivity offset of 0.5 percent, MedPAC's combined FY 2001 adjustment for science and technological advances is 0.0 percent to 0.5 percent.

MedPAC's recommendation also takes into account the increasingly apparent trend of some acute care providers to shift care to a post acute care facility. While this can occur for many reasons and the shifting of costs may maintain or improve quality of care for Medicare beneficiaries, it leads to a redistribution of payments and reduces the resources available for acute care providers to pay for services to other Medicare beneficiaries. In the past two years, MedPAC recommended a negative adjustment for site-of-care substitution or unbundling of the payment unit. However, in light of the financial pressures in the hospital industry during FYs 1998-1999 since the implementation of Public Law 105-33, MedPAC recommends a 0.0 percent adjustment for site-of-care substitution for FY 2001. We agree with MedPAC that the site-of-care substitution effect is real and that it is accounted for by our intensity recommendation.

C. Change in Case-Mix

Our analysis takes into account projected changes in case-mix, adjusted for changes attributable to improved coding practices. For our FY 2001 update recommendation, we projected a 0.5 percent increase in the case-mix index. We defined real case-mix as actual changes in the mix (and resource requirements) of Medicare patients as opposed to changes in coding behavior that results in assignment of cases to higher weighted DRGs, but do not reflect greater resource requirements. Unlike in past years, where we differentiated between "real" case-mix increase and increases attributable to changes in coding behavior, we do not feel

changes in coding behavior will impact the overall case-mix in FY 2001. As such, for FY 2001, we estimate that real case-mix is equal to projected change in case-mix. Thus, we recommended a 0.0 adjustment for case-mix.

MedPAC's analysis indicates that coding change has reduced case-mix index growth. In the past, MedPAC has recommended a negative adjustment when DRG coding changes has led to case-mix index growth. However, MedPAC now believes that it is appropriate to include a positive adjustment for DRG coding change in the FY 2001 update and recommends a combined adjustment of 0.5 percent.

MedPAC also makes an adjustment for within DRG severity. In past years, MedPAC has included an adjustment for increased case complexity not captured by the DRG classification system. The Commission recognizes that as the DRG system adjusts, it should account for more of the variation in costs by DRG assignment, leaving less within-DRG variation in case complexity and costliness. Therefore, MedPAC recommended a combined adjustment of 0.0 for FY 2001. As a result, for FY 2001, MedPAC recommends a total combined case-mix adjustment of 0.5 percent.

D. Effect of FY 1999 DRG Reclassification and Recalibration

We estimate that DRG reclassification and recalibration for FY 1999 resulted in a 0.0 percent change in the case-mix index when compared with the case-mix index that would have resulted if we had not made the reclassification and recalibration changes to the GROUPEP.

E. Forecast Error Correction

We make a forecast error correction if the actual market basket changes differ from the forecasted market basket by 0.25 percentage points or more. There is a 2-year lag between the forecast and the measurement of forecast error. Our proposed update framework for FY 2001 did not reflect a forecast error correction because, for FY 1999, there was less than a 0.25 percentage point difference between the actual market basket and the forecasted market basket.

MedPAC also made a recommendation in its FY 2001 combined update framework to adjust for any error in the market basket forecasts used to set FY 1999 payment rates.

MedPAC recommended a combined adjustment for FY 1999 forecast error correction of 0.1 percent. However, they noted that this forecast error adjustment is a result of the difference between the forecasted FY 1999 operating market basket of 2.4 percent and the actual FY 1999 operating market basket increase of 2.5 percent. The FY 1999 capital market basket forecast was equal to the actual observed increase of 0.7 percent for capital costs. Therefore, we have included MedPAC's entire 0.1 percent adjustment for FY 1999 forecast error correction in the comparison of MedPAC and HCFA's update recommendations for FY 2001 shown below in Table 1.

F. One Time Factors

MedPAC includes an adjustment for one-time factors in its update framework to

account for significant costs incurred by hospitals for unusual nonrecurring events. While MedPAC's update framework has not explicitly considered such costs in the past, the Commission believes Medicare should aid hospitals when incurring systematic and substantial one-time costs will improve care for Medicare beneficiaries. For its FY 2001 update recommendation, MedPAC

considered the costs of year 2000 improvements and the costs of major new regulatory requirements. The Commission did not recommend any additional allowance for these costs for FY 2001. Accordingly, MedPAC recommended a 0.0 percent combined adjustment for one-time factors in their update framework for FY 2001.

HCFA's update framework does not include an adjustment for one-time factors. As we mentioned in last year's proposed rule, higher input prices that hospitals incur to convert computer systems to be compliant on January 1, 2000, were accounted for through the market basket percentage increase.

TABLE 1.—COMPARISON OF FY 2001 UPDATE RECOMMENDATIONS

	HCFA	MedPAC
Market basket	MB	MB ¹
Policy Adjustment Factors		
Productivity	-0.5 to -0.4	(²)
Site-Of-Service Substitution	(³)	0.0
Intensity	0.0 to -0.6	
Science & Technology		0.0 to 0.5
Practice Patterns		(⁴)
Real Within DRG Change		(⁵)
Subtotal	-0.5 to -1.0	0.0 to 0.5
Case-Mix Adjustment Factors		
Projected Case-Mix Change	-0.5	
Real Across DRG Change	0.5	0.5
Real Within DRG Change	(³)	0.0
Subtotal	0.0	0.5
Effect of FY 1999 Reclassification and Recalibration	0.0	
Forecast Error Correction	0.0	0.1
Total Recommendation Update	MB -0.5 to MB -1.0	MB ¹ + 0.6 to MB ¹ +1.1

¹ Used HCFA's March 2000 operating market basket forecast in its combined update recommendation.
² Included in MedPAC's Science and Technology Adjustment.
³ Included in HHS' Intensity Factor.
⁴ Included in MedPAC's Productivity Measure in its Science and Technology Adjustment.
⁵ Included in MedPAC's Case-Mix Adjustment.

MedPAC's combined update recommendation of between 3.5 percent and 4.0 percent for FY 2001 operating and capital payments is higher than the current law amount as set forth by Public Law 105-33 and the amount in the proposed rule. While the above analysis would support a recommendation that the update be between than the operating market basket minus 0.5 percentage points and the operating market basket minus 1.0 percentage points, consistent with current law we recommended an update of market basket increase minus 1.1 percentage points (or 2.3 percent). We note that this approximates the lower bound of the range suggested by our framework when accounting for a negative intensity change.

IV. Secretary's Final Recommendations for Updating the Prospective Payment System Standardized Amounts

In recommending an update, the Secretary takes into account the factors in the update framework, as well as other factors such as the recommendations of MedPAC, the long-term solvency of the Medicare Trust Funds, and the capacity of the hospital industry to continually provide access to high-quality

care to Medicare beneficiaries through adequate reimbursement to health care providers.

To ensure that beneficiaries continue to have access to high-quality care and to allow more time to assess the full impact of Public Law 105-33 and Public Law 106-113, the Secretary recommends an update of 3.4 percent (full market basket) for FY 2001. We note that this recommendation requires a change in law. The FY 2001 President's Budget Mid-Session Review, released on June 26, 2000, included a proposal to provide for the full market basket update for FY 2001. We will continue to evaluate our current framework to ensure that the recommended update appropriately reflects current trends in health care delivery and that Medicare acts as a prudent purchaser providing incentives to hospitals for increased efficiency, thereby contributing to the solvency of the Medicare Part A Trust Fund.

We received one comment concerning our proposed update recommendation.

Comment: One commenter stated that the continual update and routine replacement of procedures with more sophisticated, higher cost procedures is not picked up within the HCFA pricing system, particularly the use of

pharmaceuticals and other scientific and technological advances. The commenter argued that the market basket minus 1.1 percent update for FY 2001 does not recognize the true impact of these factors on hospital-based payments, noting that from FYs 1998 through 2000 the cumulative market basket rose significantly higher than the Medicare operating prospective payment system updates, which were mandated by Public Law 105-33.

Response: By design, the market basket captures only the pure price change of inputs such as labor, materials, and capital that are used to produce a constant quantity and quality of care. This is done using price proxies that reflect the prices of the major inputs hospitals utilize in providing care. For pharmaceuticals, the price proxy used is the Producer Price Index (PPI) for pharmaceutical preparations produced by Bureau of Labor Statistics. This price proxy captures the price change of 'new' pharmaceuticals after they are introduced and the price changes between new drugs that replace existing drugs or generic drugs that replace brand-name drugs.

The market basket appropriately does not recognize the introduction or the increased

utilization of 'new' scientific and technological advances. Instead, these factors, including the increased use of 'new' pharmaceutical drugs, would be reflected in the intensity adjustment of the update framework. Our intensity standard is partly

based on changes in the use of quality enhancing services or technology changes (along with changes in case-mix). HCFA's update recommendation uses this adjustment to account for the additional costs of adopting and utilizing new advances that an

efficient provider would face in providing a high quality of patient care.

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Federal Register

**Tuesday,
August 1, 2000**

Part III

Department of Commerce

**National Oceanic and Atmospheric
Administration**

**50 CFR Part 635
Atlantic Highly Migratory Species; Pelagic
Longline Management; Final Rule**

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 991210332-0212-02; I.D. 110499B]

RIN 0648-AM79

Atlantic Highly Migratory Species; Pelagic Longline Management

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final regulations to prohibit pelagic longline fishing at certain times and in certain areas within the Exclusive Economic Zone of the Atlantic Ocean off the coast of the Southeastern United States and in the Gulf of Mexico, and to prohibit the use of live bait when deploying pelagic longline gear in the Gulf of Mexico. This action is necessary to reduce bycatch and incidental catch of overfished and protected species by pelagic longline fishermen who target highly migratory species (HMS).

DATES: This final rule is effective September 1, 2000.

ADDRESSES: For copies of the Final Supplemental Environmental Impact Statement/Regulatory Impact Review/Final Regulatory Flexibility Analysis (FSEIS/RIR/FRFA), contact Steve Meyers at 301-713-2347 or write to Rebecca Lent, Chief, HMS Division (SF/1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Steve Meyers at 301-713-2347, fax 301-713-1917, e-mail steve.meyers@noaa.gov; or Buck Sutter at 727-570-5447, fax 727-570-5364, e-mail buck.sutter@noaa.gov.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish and tuna fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635.

Pelagic Longline Fishery

Pelagic longline gear is the dominant commercial fishing gear used by U.S. fishermen in the Atlantic Ocean to target highly migratory species. The gear

consists of a mainline, often many miles in length, suspended in the water column by floats and from which baited hooks are attached on leaders (gangions). Though not completely selective, longline gear can be modified (e.g., gear configuration, hook depth, timing of sets) to target preferentially yellowfin tuna, bigeye tuna, or swordfish.

Observer data and vessel logbooks indicate that pelagic longline fishing for Atlantic swordfish and tunas results in catch of non-target finfish species such as bluefin tuna, billfish, and undersized swordfish, and of protected species, including threatened and endangered sea turtles. Also, this fishing gear incidentally hooks marine mammals and sea birds during tuna and swordfish operations. The bycatch of animals that are hooked but not retained due to economic or regulatory factors contributes to overall fishing mortality. Such bycatch mortality may significantly impair rebuilding of overfished finfish stocks or the recovery of protected species.

Proposed Bycatch Reduction Strategy

Atlantic blue marlin, white marlin, sailfish, bluefin tuna, and swordfish are overfished. In the HMS FMP and Amendment 1 to the Atlantic Billfish FMP (Billfish FMP Amendment), NMFS adopted a strategy for rebuilding these stocks through international cooperation at the International Commission for the Conservation of Atlantic Tunas (ICCAT). This strategy primarily involves reducing fishing mortality through the negotiation of country-specific catch quotas according to rebuilding schedules. However, the contribution of bycatch to total fishing mortality and the fact that ICCAT catch quotas for some species require that countries account for dead discards must be considered in the HMS fisheries. The swordfish rebuilding plan that was adopted by ICCAT at its 1999 meeting provides added incentive for the United States to reduce swordfish discards.

In addition to ICCAT stock rebuilding efforts, several other applicable laws require that NMFS address bycatch issues in the HMS fisheries. These include the Magnuson-Stevens Act, the Marine Mammal Protection Act (MMPA), and the Endangered Species Act (ESA). Magnuson-Stevens Act national standard 9 for fishery management plans requires U.S. action to minimize bycatch and bycatch mortality to the extent practicable.

Under the MMPA, the Atlantic pelagic longline fishery has been listed as a Category I fishery due to the frequency of incidental mortality and

serious injury to marine mammals. The Atlantic Offshore Cetacean Take Reduction Team was formed in May 1996 to address protected species bycatch in the Atlantic pelagic fisheries. A take reduction plan, submitted to NMFS in November, 1996, that contained measures to address the bycatch of strategic stocks of marine mammals, noted that additional reductions in takes of marine mammals could occur with closures of certain fishing areas during times of high interaction rates.

Finally, under the ESA, NMFS is required to address fishery-related take of sea turtles that are considered threatened or endangered. Although most turtles are released alive, NMFS remains concerned about serious injuries of turtles hooked on pelagic longline gear. To the extent that turtle interactions occur at higher rates in certain fishing areas at particular times, time-area closures for pelagic longline fishing could affect turtle takes. An area closure to address swordfish discards could also help reduce sea turtle interactions if these animals tend to occur in the same ocean areas at the same time. Conversely, if sea turtle interactions are relatively higher in areas that remain open, fishing effort displaced from areas closed to protect juvenile swordfish could lead to increased turtle takes.

In the final HMS FMP and Billfish FMP Amendment, NMFS stated that a comprehensive approach to time-area closures would be undertaken as part of a bycatch reduction strategy after further analysis of the data and consultation with the HMS and Billfish Advisory Panels (APs). NMFS held a combined meeting of the HMS and Billfish APs on June 10-11, 1999, to discuss possible alternatives for a proposed rule under the framework provisions of the HMS FMP. The AP members were generally supportive of the time-area management strategy, provided several comments on temporal and/or spatial components that NMFS should consider further in its analyses, and requested that NMFS develop a written document outlining all analytical methods and results of the time-area evaluation. The APs' comments and suggestions were included in the development of a draft Technical Memorandum, which was made available to the public on November 2, 1999 (64 FR 59162).

Subsequent to the release of the Technical Memorandum, NMFS considered three alternative actions to reduce bycatch and/or bycatch mortality in the Atlantic HMS pelagic longline fishery: status quo, gear modifications that would decrease hook-ups and/or

increase survival of bycatch species, and the prohibition of longline fishing in areas where rates of bycatch or incidental catch are higher. NMFS considered gear modifications beyond those examined previously during development of the HMS FMP. NMFS also considered a broad range of closures, both in terms of area and time. A proposed rule was published December 15, 1999 (64 FR 69982), for which alternatives were identified and analyzed in a draft Supplemental Environmental Impact Statement (64 FR 73550, December 30, 1999). The proposed rule included closed areas for pelagic longline gear in the western Gulf of Mexico and off the southeast coast of the United States.

During the comment period on the proposed rule, NMFS received comment on many issues related to the proposed time/area closures. In particular, commenters noted that the proposed closure in the western Gulf of Mexico would not adequately address juvenile swordfish bycatch in the DeSoto Canyon area of the eastern portion of the Gulf. Additionally, commenters noted the significant economic impacts associated with large scale area closures in that vessel operators and shoreside support services would need considerable time for adjustment and relocation. Given these comments, NMFS analyzed the potential impacts of an additional closed area in the DeSoto Canyon. Subsequently, NMFS published supplementary information regarding the potential impacts of closing the DeSoto Canyon Area together with a revised summary of the IRFA prepared for the proposed rule (65 FR 24440, April 26, 2000). The comment period for the proposed rule was reopened through May 12, 2000, and NMFS specifically requested comments on the extent to which delayed effectiveness could mitigate the economic impacts of area closures.

ESA Consultation

On November 19, 1999, NMFS reinitiated consultation under section 7 of the ESA based on preliminary reports that observed incidental take of loggerhead sea turtles by the Atlantic pelagic longline fishery during 1999 had exceeded levels anticipated in the Incidental Take Statement (ITS) previously issued for the HMS FMP. Additionally, the consultation included the pelagic longline management rulemaking that was in preparation, as it was recognized that the time/area closures, if implemented, could affect the overall interaction rates with sea turtles. In a Biological Opinion issued on June 30, 2000 (BO), NMFS concluded

that operation of the pelagic longline fishery was likely to jeopardize the continued existence of loggerhead and leatherback sea turtles. The BO identified the Reasonable and Prudent Alternatives (RPAs) necessary to avoid jeopardy and listed the Reasonable and Prudent Measures (RPMs) and Terms and Conditions (TCs) necessary to authorize continued take as part of a revised ITS. While the implications of the BO are discussed in this final rule, NMFS will undertake additional rulemaking and non-regulatory actions as required to implement the additional management measures required under the BO.

Response to Comments

NMFS received several hundred comments and several thousand form letters during the 2 comment periods, 13 public hearings, and 2 joint AP meetings of this rulemaking. Following are summaries of the comments together with NMFS' responses.

General

Comment 1: There is no conservation benefit from the proposed closures except for small swordfish; therefore, the proposed time/area closures will probably have an imperceptible effect on rebuilding overfished HMS.

Response: NMFS disagrees. Depending on the amount of redistribution of effort under the proposed closed areas, other species, such as sailfish and large coastal sharks, may benefit from these closures. Under the no-effort redistribution model, billfish discards are reduced by 19 to 43 percent, although, as discussed in the FSEIS, the actual benefit of these time/area closures is likely somewhere between the extremes predicted by the effort redistribution models. Further, prohibiting the use of live bait will provide a 10- to 46-percent reduction in billfish discards in the Gulf of Mexico. National standard 9 of the Magnuson-Stevens Act requires that FMPs reduce bycatch to the extent practicable.

Although it was not a stated objective of the final rule to rebuild overfished stocks through time/area closures or gear modifications, some benefit to rebuilding may also be experienced to the degree that mortality rates will be reduced for juveniles, pre-adults, and reproductive fish. Also, to the extent that the United States can use the domestic bycatch reduction program, including time/area closures and gear modifications, to convince other ICCAT member nations that bycatch should be minimized, these actions may have a significant impact on Atlantic-wide rebuilding of overfished HMS stocks.

Comment 2: NMFS is already past the deadline for a rebuilding program for overfished HMS that includes bycatch reduction measures.

Response: NMFS disagrees. The HMS FMP and the Billfish FMP Amendment include rebuilding plans that meet Magnuson-Stevens Act guidelines. The swordfish rebuilding program recently adopted by ICCAT is based in large part on the rebuilding plan outlined in the HMS FMP. Similarly, the rebuilding plans for blue and white marlin emphasize the importance of international efforts to reduce bycatch and bycatch mortality. NMFS implemented bycatch reduction measures in the HMS FMP, including limited access for swordfish and shark fisheries, time/area closure for pelagic longline gear to reduce bluefin tuna dead discards, limiting the length of mainline for longline fishermen, and other measures summarized in the HMS FMP. The Billfish FMP Amendment also outlined a bycatch reduction strategy. NMFS expects that additional measures will continue to be implemented for all HMS fisheries, including educational workshops that share results of recent research on gear modifications. Finally, as a result of the jeopardy finding in the BO, NMFS will initiate implementation of the requirements of the BO via additional rulemaking and other non-regulatory means.

Comment 3: NMFS should extend the VMS implementation deadline past June 1, 2000.

Response: NMFS agrees. On April 19, 2000 (65 FR 20918), NMFS extended the effective date until September 1, 2000. This will provide adequate time (2 months) to ensure that all systems are fully functional prior to the implementation of the time/area closures. Also, implementation of the measures in the BO may require a time/area closure and/or gear setting restrictions to be enforced by VMS.

Comment 4: As the swordfish stocks continue to rebuild, the United States may need more U.S. boats to harvest the swordfish quota.

Response: NMFS disagrees. The final regulations implementing the HMS FMP (May 28, 1999; 64 FR 29090), NMFS established a limited access program for Atlantic swordfish, Atlantic shark, and the pelagic longline sector of the Atlantic tuna fisheries. A description of the qualifying requirements for a directed or incidental limited access permit is contained in Chapter 4 of the HMS FMP. Using a multi-tiered process based on participation, approximately 450 limited access swordfish permits (directed and incidental) were awarded.

Subsequent examination of fishing activity by these vessels in preparation of the proposed and final rule indicates that a significant portion did not report any HMS landings in either 1997 (331 vessels reported HMS landings) or 1998 (208 vessels reported HMS landings). Currently, the North Atlantic swordfish stock is estimated to be at 65 percent of the level needed to support maximum sustainable yield (MSY). When the stock attains the level consistent with MSY, it is likely that the number of U.S.-flagged vessels with directed or incidental swordfish permits will be sufficient to handle any potential increase in the U.S. swordfish quota.

Comment 5: NMFS should be concerned about small sources of mortality that may exacerbate overfishing and slow rebuilding.

Response: NMFS agrees and is concerned about all sources of mortality on HMS stocks. NMFS is committed to work through available international fora to rebuild overfished HMS stocks, even when U.S. fishing is responsible for only a small source of the total Atlantic-wide mortality. The rebuilding plans provided in the Billfish FMP Amendment are indicative of this commitment. Further, the Agency is required by the Magnuson-Stevens Act to take appropriate conservation actions, while considering the social and economic impacts on fishermen and fishing communities, and as such must consider management actions that meet the national standard guidelines.

Comment 6: NMFS should increase outreach efforts to inform the public of the need for management of HMS resources.

Response: NMFS agrees but is currently restricted from increasing outreach efforts by competing demands for funding (e.g., funds for observers, science). Note that the NMFS Highly Migratory Species Management Division posts current events and useful documents on the website www.nmfs.noaa.gov/sfa/hmspg.html. NMFS also produces informational brochures on current fishing regulations and mailouts, and NMFS uses a fax network for distribution of information. NMFS scientists are also participating in periodic outreach programs to share information on life history of billfish, sharks and tunas, as well as sharing information on methods that will enhance survival of released fish. An information hotline has also been established that summarizes current fisheries regulations as they apply to HMS. The hotline can be accessed by calling toll-free at 1-800-894-5528. Additional outreach efforts will be

implemented as funding becomes available.

Comment 7: The proposed closed areas will result in an increase in swordfish imports into the United States; this would deny U.S. seafood consumers access to fresh, quality-controlled fish.

Response: NMFS does not anticipate that the U.S. fleet will be unable to meet its quota as a result of this final rule. Therefore, it is unlikely that imports will increase as a result of closed areas, although imports may increase for other unrelated reasons. NMFS does regulate the swordfish market other than to prohibit the import of undersized Atlantic swordfish into the U.S., which is monitored through the Certificate of Eligibility program. NMFS does not anticipate that this rule would affect the availability of high-quality, inspected seafood products provided to citizens of the United States by U.S. commercial fishermen. Imports of fishery products into the United States are also subject to the same hazard analysis and critical control point (HACCP) guidelines as are domestic landings.

Comment 8: The proposed closed areas are not equitable for constituents in different states.

Response: As required by national standard 2 of the Magnuson-Stevens Act, NMFS utilized the best available scientific information to develop the proposed rule and the final action. NMFS used logbooks, observer programs, and various scientific studies to identify distributional patterns of seasonal abundance, by species, and areas of overlap between various HMS, protected and endangered species, as defined by concentrations of bycatch and incidental catch from pelagic longline gear in the U.S. EEZ. Therefore, in large part, the biology of the species dictated the locations of the closures. In the selection of the final actions, international obligations and the national standards were considered, including the issue of equity, as required by national standard 4. While the final closed areas may have larger impacts on fishermen who fish in those areas, such impacts are not inconsistent with national standard 4.

Comment 9: NMFS is ignoring sea bird bycatch by the recreational fishermen who troll for HMS.

Response: NMFS disagrees that it is ignoring sea bird bycatch. NMFS has no data indicating that sea birds are caught and discarded in the recreational fishery for HMS. NMFS is currently implementing a logbook and a voluntary observer program for charter/headboats involved with HMS fisheries. This program will provide additional

information on recreational fishing, including any possible interactions with seabirds or other protected or endangered species. If the data collected indicate that a sea bird bycatch problem exists in the U.S. recreational troll fisheries, NMFS will take appropriate action.

Comment 10: NMFS should quantify bycatch and bycatch mortality in the recreational fishery.

Response: NMFS agrees that quantifying bycatch and bycatch mortality in recreational fisheries is important and has collected data used to quantify bycatch of large pelagics in the recreational fishery. Such data are reported in the U.S. National Report prepared each year by NMFS for submission to ICCAT. The Billfish FMP Amendment established a catch-and-release fishery management program for the recreational Atlantic billfish fishery; therefore, all billfish released alive, regardless of size, by recreational anglers are not considered as bycatch. However, the mortality associated with the capture-and-release event is an important component to quantify for population assessment. NMFS currently collects data on the number of billfish retained and released at selected tournaments. NMFS has funded studies to quantify the bycatch mortality in bluefin tuna and billfish recreational fisheries, and NMFS scientists have recently reported on the use of circle hooks to reduce release mortality for the recreational billfish fishery. NMFS encourages fishermen to handle and release HMS in a manner that maximizes their chances of survival.

Comment 11: NMFS should re-establish the Second Harvest Program for swordfish whereby undersized swordfish are fed to the hungry instead of being discarded as bycatch.

Response: The specific regulations for the swordfish donation program were eliminated when the HMS regulations were consolidated in implementing the final HMS FMP and Billfish FMP Amendment (May 29, 1999; 64 FR 29090). During the consolidation process, the swordfish donation program regulations were evaluated under the President's Regulatory Reinvention Initiative. Given the low level of participation in the program at the time and the anticipated reduction in dead discards of undersized swordfish as the U.S. moved to adopt the alternative minimum size, it was determined that potential scale of operations did not require extensive regulatory text. However, under the current consolidated regulations, a fishermen could apply for an Exempted Fishing Permit (EFP) to authorize the

donation of certain fish that could not otherwise be retained (e.g., swordfish in excess of the bycatch limits in effect for the particular vessel). Thus, the regulations still provide a mechanism for a donation program.

Comment 12: NMFS regulations force pelagic longline fishermen to discard swordfish, thus increasing bycatch in this fishery. NMFS should have a higher minimum size with a tolerance for undersized fish to reduce bycatch.

Response: Swordfish caught below the minimum size are regulatory discards and, as such, are considered bycatch. The minimum size limit was established to create an incentive for fishermen to avoid areas of undersized swordfish, though this was found to be less successful than anticipated. NMFS discontinued the use of a higher minimum size with a 15-percent tolerance for smaller fish because of concerns about the difficulty in enforcing such a measure. NMFS proposed a lower minimum size with no tolerance, and industry participants largely supported this decrease, stating that most of the fish landed under the tolerance provisions were just under the higher minimum size. In the Spring of 1999, the ICCAT Advisory Committee recommended that NMFS evaluate the efficacy of the swordfish minimum size limit and reconsider eliminating that size limit if warranted. Pending the outcome of that evaluation, ICCAT is expressly considering discards in the swordfish catch allocation scheme. Under the 1999 ICCAT recommendation, total North Atlantic discards of undersized swordfish are subject to an allowance of 400 mt Atlantic-wide for the 2000 fishing season; the U.S. receives 80 percent of this dead discard allowance (320 mt). The United States is obligated by international agreement to address swordfish discards. The time/area closures defined in the final rule will significantly reduce swordfish discards by U.S. pelagic longline vessels. Although some small swordfish will still be encountered under time/area management, the overall proportion of the catch that is discarded will be reduced and may, in fact, provide an opportunity to consider alternatives to minimum sizes in the international management of Atlantic swordfish.

Comment 13: The proposed closed areas are expected to increase the catch of mako, thresher, and blue sharks. The pelagic shark stocks will not be able to withstand the possible increase in pelagic shark mortality (landings and discards) associated with pelagic longline effort redistribution.

Response: Although the status of the pelagic sharks stock is currently designated as unknown, NMFS disagrees that the final rule will have a significant adverse impact on pelagic shark mortality. However, this does not mean that NMFS is not concerned about the status of these stocks. In fact, the HMS FMP established a blue shark quota, including dead discards from pelagic longline gear, that effectively sets an upper limit to the magnitude of impacts from displaced effort. In analyzing the impacts of the final closed areas, NMFS predicts only a 4-percent increase in pelagic shark landings and estimated discard rates increase by 8 percent under the effort redistribution model, which may overestimate impacts on bycatch and target catch. NMFS will closely monitor all pelagic shark landings through logbook and observer programs to follow changes in landing patterns resulting from effort redistribution.

Comment 14: The proposed time/area closures will reduce gear conflicts between the growing recreational HMS fisheries and commercial fishing communities, but in some areas, particularly the eastern Gulf of Mexico and Mid-Atlantic Bight, conflicts could potentially increase.

Response: NMFS previously identified gear conflicts between recreational and commercial entities in the 1988 Atlantic Billfish FMP and in the 1999 Amendment to that FMP. NMFS agrees that conflicts between recreational and commercial fishing groups could escalate in areas that remain open as a result of pelagic longline effort redistribution. Mitigating possible user conflicts was one of several reasons that temporal and spatial components of the proposed action were refined in the final action and, in the case of the western Gulf of Mexico, replaced by a live bait prohibition. Any management measure leading to a reduction in bycatch of billfish from commercial fishing gear may lead to localized increases in angler success and resultant economic benefits to associated U.S. recreational industries.

Comment 15: NMFS should consider implementing Individual Transferable Quotas (ITQs) in the future as a bycatch reduction measure, particularly for bluefin tuna in the longline fishery.

Response: Implementation of an ITQ scheme, with the sole or even partial purpose of reducing discards, could be considered and would require extensive detailed analysis before proceeding. However, NMFS is prohibited by the Magnuson-Stevens Act from implementing new ITQ programs at this

time. The HMS FMP specifically addressed the bycatch of bluefin tuna by the pelagic longline fishery through implementation of a time/area closure during June off the Mid-Atlantic Bight. Initial results of the efficacy of the first closure (June 1999) are preliminary and do not indicate that the anticipated reductions were fully achieved. NMFS is currently reviewing whether the results are due to (1) a limited time frame for outreach (the final rule was published on May 28, 1999, with an effective date of June 1, 1999, for the bluefin tuna pelagic longline closure); (2) enforcement issues (VMS implementation was delayed until September 1, 2000); or, (3) inter-annual variation in the areas of BFT interaction (increased discards occurred outside of the closed area).

Comment 16: Large closed areas will pose significant enforcement challenges to U.S. Coast Guard (USCG) since the areas identified for closure in the proposed rule are not routinely patrolled by cutters. (This comment received from the USCG was followed up by a comment that supports the use of VMS to enforce closed areas.)

Response: NMFS recognizes the need for effective enforcement of these closed areas and, as such, supports the use of VMS, which will become effective for all pelagic longline vessels on September 1, 2000 (65 FR 20918; April 19, 2000). USCG resources will continue to be utilized, as that Agency is capable of confirming a vessel's location and whether it is fishing in the closed area. NMFS has entered into a cooperative agreement with the USCG to assist in the monitoring of fishing vessels at USCG locations.

Comment 17: NMFS should define the closed area by latitude and longitude in the regulatory text, including the designation for the U.S. EEZ.

Response: Except for a small portion of the East Florida Coast area, NMFS provides latitude and longitude coordinates for the boundaries to the closed areas in the regulatory text of this final rule. Given the curvature of the EEZ boundary between the U.S. and the Bahamas, it would be too complicated to express that segment of the boundary in latitude and longitude coordinates. NMFS notes that the EEZ boundary is plotted on most NOAA nautical charts and that vessel operators fishing that area must be familiar with the EEZ boundary in any case, as they are not authorized to fish commercially in the Bahamas.

Comment 18: NMFS should take these proposed closed areas to ICCAT and encourage international closed areas.

Response: NMFS supports consideration of closed areas and gear modifications to reduce undersized swordfish catch and fishing mortality and to protect spawning and/or nursery areas for swordfish and billfish on an Atlantic-wide basis, as discussed in the HMS FMP and Billfish FMP Amendment. In 1999, ICCAT adopted a U.S.-sponsored resolution for the development of possible international time/area closures (and gear modifications), and the Standing Committee for Research and Statistics (SCRS) is scheduled to provide a report on this topic at the ICCAT meeting in 2002. The final rule will be included in the U.S. National Report that will be submitted to ICCAT in October, 2000.

Comment 19: NMFS should ban pelagic longline gear or, at least, ban the use of this gear inside the U.S. EEZ.

Response: NMFS disagrees. Banning pelagic longline gear in the U.S. EEZ is not necessary to protect highly migratory species. Bycatch can be addressed through time/area closures, education, and gear modifications. Requiring all vessels using pelagic longline gear to fish only outside the 200 mile limit may also be inconsistent with consideration of safety issues as required under national standard 10.

Comment 20: Closures are not necessary; swordfish are rebuilding.

Response: NMFS agrees that the North Atlantic swordfish stock may have stabilized and that an international rebuilding program is in place. To the extent that the time/area closures will reduce bycatch and bycatch mortality of undersized swordfish, pre-adults, and spawning fish, the closures will enhance stock rebuilding. Furthermore, NMFS is required by an ICCAT recommendation and under national standard 9 to minimize bycatch, to the extent practicable. Providing protection of small swordfish and reproducing fish through time/area closures is particularly critical as stocks begin to rebuild. The United States is allocated 29 percent of the north Atlantic swordfish quota (1997 through 1999), and approximately 80 percent of the reported dead discards. Under the 1999 ICCAT recommendation, the total North Atlantic dead discard allowance for the 2000 fishing season is 400 mt; the U.S. receives 80 percent of the North Atlantic dead discard allowance (320 mt). The dead discard allowance for the United States is reduced to 240 mt in 2001, 160 mt in 2002, and will be phased out by 2004, with any overage of the discard allowance coming off the following year's quota. A total of 443 mt of swordfish were reported discarded by U.S. fishermen in the North Atlantic

during 1998. Under the time/area strategy of the final rule, the no effort redistribution model predicts a 41.5-percent reduction in discards; under the effort redistribution model, discards are reduced by 31.4 percent. The closures could potentially reduce discards from 1998 levels to 259 mt under the no-effort redistribution model and to 304 mt under the effort redistribution model, thereby meeting at least the year 2000 discard allocation levels without affecting the subsequent year's quota.

Comment 21: NMFS should increase observer coverage of all components of HMS fisheries, including the pelagic longline fishery.

Response: NMFS agrees that it would be beneficial to increase observer coverage to document bycatch in all HMS fishing sectors. Observer coverage of the pelagic longline averaged between 4 and 5 percent between 1992 through 1998; a total of 2.9 percent of pelagic longline sets were observed during 1998. However, given current fiscal constraints, NMFS will not likely be able to significantly increase observer coverage in the pelagic longline fishery. NMFS will investigate additional funding mechanisms. Depending on funding, NMFS may implement an initial phase of the HMS charter/headboat and voluntary observer program in the summer of 2000 that will provide additional bycatch information from recreational fisheries.

Comment 22: NMFS should develop a comprehensive bycatch strategy, including specific targets for bycatch reduction.

Response: NMFS disagrees that setting fixed bycatch targets is necessary; in fact, such targets may be counterproductive. The multi-species approach followed in the development of the proposed and final action to reduce bycatch, bycatch mortality, and incidental catch precludes setting target reduction for specific species without considering the impact on the remaining portion of the catch composition. For example, if the time/area closures were simply based on reducing swordfish discards by a set percentage, a concomitant increase in bycatch of other species could occur, or target catches could be reduced more than necessary to achieve national standard 9 mandates. NMFS agrees that a comprehensive bycatch strategy is necessary and has outlined a plan that incorporates data collection, analysis, and measures that minimize bycatch, to the extent practicable. This strategy is outlined in the HMS FMP and the Billfish FMP Amendment.

Comment 23: NMFS should conduct educational workshops.

Response: NMFS supports the use of educational workshops to disseminate information on current research regarding bycatch reduction and to provide a forum through which fishermen can share bycatch reduction techniques with each other. NMFS scientists periodically hold seminars for fishermen to discuss the benefits of circle hooks and other handling techniques in the recreational billfish fishery. NMFS will seek input from representatives of fishing organizations and from the AP members regarding opportunities for workshops. Depending upon available funding and staff, NMFS will hold educational workshops to examine bycatch reduction activities in HMS fisheries, both for recreational and commercial fishermen.

Comment 24: NMFS needs to be able to respond quickly to results of monitoring and evaluation of closed areas. NMFS should develop a framework process for adjusting closed areas, if necessary, in a timely manner.

Response: NMFS agrees that a quick response to shifting fishing effort patterns is necessary. NMFS is currently able to adjust or develop new closed areas through the framework process (proposed and final rules, including public comment period) without amending the HMS FMP in the event that closed areas need to be altered to maximize the benefits to the nation. However, it will take time to collect and analyze the appropriate information, including data from the mandatory logbooks, observer program, and VMS.

Comment 25: NMFS should reduce effort in the longline fishery, not just reduce bycatch.

Response: The intent of this rulemaking is not to reduce effort in the fishery, but to reduce bycatch while minimizing the reduction of target catch by shifting effort away from areas with high bycatch and incidental catch. NMFS agrees that under a quota system, a time/area closure scheme will not necessarily reduce effort, although some vessel operators may choose to discontinue fishing due to economic or social factors. The use of time/area closures and gear restrictions (prohibition of live bait) was deemed by NMFS to be the best available management tool to reduce current levels of bycatch by the pelagic longline fishery, as required by national standard 9.

Comment 26: NMFS should consider additional actions to address the impact of the increase in sea turtle interactions resulting from pelagic longline effort redistribution.

Response: NMFS agrees that sea turtle interactions with pelagic longline gear

must be minimized as required by the ESA for listed species. On November 19, 1999, NMFS reinitiated consultation with NMFS' Office of Protected Resources based on preliminary information on the 1999 take levels by the pelagic longline fishery. The BO issued on June 30, 2000 concluded that the continuation of the pelagic longline fishery could jeopardize the continued existence of loggerhead and leatherback sea turtles. The final time/area closures along the southeastern U.S. Atlantic coast were temporally and spatially reconfigured to mitigate, to the extent practicable, the impact of effort redistribution on sea turtle interactions. Bycatch rates, particularly for sea turtles, may be over-estimated by the effort redistribution model because the model estimated bycatch rates by assuming random or constant catch-per-unit-effort in all remaining open areas. This estimation procedure could skew results for certain species if those species are concentrated in certain areas (such as sea turtles in the Grand Banks), instead of being randomly distributed over the entire open area. Fishing activities will be monitored using VMS, as well as through logbooks and on-board observers, to determine impacts of actual effort redistribution, which may require further Agency action to address increased turtle takes. NMFS is initiating efforts to address the requirements of the BO, including possible regulatory and non-regulatory actions.

Comment 27: NMFS is proceeding with the use of time/area management strategies only because of litigation filed against NMFS by various environmental groups following publication of the final rules implementing the HMS FMP.

Response: NMFS disagrees. During public hearings held during the Fall of 1998 as part of the scoping process used to develop management alternatives for the draft HMS FMP and the Billfish FMP Amendment, NMFS received many comments regarding the utility of time/area closures to reduce bycatch in various HMS fisheries, including pelagic longline gear, and their use in protecting essential fish habitat (e.g., spawning and nursery grounds). The draft HMS FMP included a closure of a portion of the Florida Straits to reduce swordfish discards. Comments on the proposed action indicated that the area was spatially and temporally too limited to accomplish any significant reduction in bycatch, and, consequently, the area was not included as part of the final action. However, the HMS FMP clearly stated that, following publication of a final rule, an evaluation of wide-ranging time/area closures would be completed

and implemented, if warranted. NMFS honored that commitment through the preparation of the Draft Technical Memorandum and the proposed and final rules, establishing both time/area and gear modifications to reduce bycatch by the U.S. Atlantic HMS pelagic longline fishery.

Comment 28: The comment period for the DeSoto Canyon area closure alternative is too short. Additional time must be provided to allow those in the affected area to adequately respond to this potentially devastating closure.

Response: NMFS disagrees that additional time was warranted for public comment on the DeSoto Canyon closure alternative. During the public hearing period for the proposed rule (December 15, 1999, to March 1, 2000), NMFS received many comments indicating that an additional closure was needed in the northeastern Gulf of Mexico because of the historically high swordfish discard rate in the area. In response to this comment, NMFS conducted additional analysis and identified an area generally around the DeSoto Canyon that in fact did have high incidence of discards of swordfish relative to swordfish kept. Although the DeSoto Canyon is included within areas that were analyzed in the DSEIS and draft Technical Memorandum (made available November 1999), NMFS decided that an additional comment period was needed specifically on the potential utility of this closure because pelagic longline effort has declined by greater than 50 percent in this area over the past 5 years. NMFS notified the public of its intentions to consider a sub-area of previously analyzed areas in the Gulf of Mexico (i.e., DeSoto Canyon) through the HMS fax network, which is sent to thousands of permit holders, seafood dealers and fish houses throughout the eastern United States. In addition, NMFS mailed the **Federal Register** notice with supplementary information summarizing the biological, economic, and social analysis of the DeSoto Canyon closure, and the VMS materials to all HMS pelagic longline permittees. As a result of the April 26, 2000, **Federal Register** notice (65 FR 24440) soliciting comment on this alternative, NMFS received hundreds of responses, indicating that adequate time was provided for comment.

Comment 29: Fish farming is the only answer to providing fish as a food for our population.

Response: NMFS agrees that aquaculture and mariculture play and have an important role to play in providing fishery products, but disagrees that they are the only answer.

Use of Time/Area Closures to Reduce Bycatch

Comment 1: NMFS should use time/area closures to reduce bycatch.

Response: NMFS agrees that closed areas can be an effective way to reduce bycatch, both in the U.S. and international pelagic longline fisheries, and this final rule implements time/area closures for the pelagic longline fisheries in the Gulf of Mexico and along the southeastern U.S. Atlantic coast. Due to efforts of the United States, ICCAT has asked its scientific committee to explore the use of closed areas throughout the management unit. Swordfish, marlin, sailfish, and other HMS are considered overfished and are currently experiencing overfishing Atlantic-wide. The rebuilding plans established in the HMS FMP and the Billfish FMP Amendment will be enhanced to the extent that reduction of bycatch will decrease mortality of juveniles and reproductive fish. Further, a reduction in swordfish discards is now critical for the U.S. pelagic longline fishery as a result of the 1999 ICCAT recommendation setting a North Atlantic discard allowance that is incrementally reduced to a zero tolerance level by 2004.

Comment 2: NMFS should change the size and/or shape of the proposed western Gulf of Mexico closed area.

Response: NMFS agrees and is closing the DeSoto Canyon area year-round to pelagic longline fishing to address undersized swordfish discards and to prevent further increases in swordfish discards as a result of possible effort displacement to this area in response to the southeastern U.S. Atlantic coastal closures. Further, NMFS has attempted to mitigate the economic effects of the actions specifically aimed at reducing billfish bycatch, by eliminating the proposed western Gulf closure and by prohibiting use of live bait by pelagic longline vessels in the Gulf of Mexico instead. This gear modification is potentially as effective in reducing sailfish discards as the western Gulf closure and is approximately half as effective in reducing marlin discards. However, in consideration of the magnitude of U.S. billfish discards relative to Atlantic-wide levels and the extent of the economic impacts associated with the proposed western Gulf closure, modifying fishing practices is a viable alternative that effectively accomplishes the objectives of reducing billfish bycatch while allowing fishing to continue in the western Gulf of Mexico.

Comment 3: Several commenters supported a closure of the Charleston

Bump area. Conversely, other commenters stated that the level of fishing activity in the Charleston Bump area does not warrant closure of this area.

Response: Although pelagic longline activity in the Charleston Bump area results in bycatch of small swordfish throughout the year, over 70 percent of the swordfish bycatch takes place during February through April. Therefore, NMFS is closing the Charleston Bump area for this 3-month time frame of the highest discard rates. This partial year closure addresses the bulk of swordfish discards while minimizing social and economic impacts of the rule by allowing fishing for 9 months, rather than the year-round closure included in the proposed Agency action. Minimizing the temporal component of the Charleston Bump closure also reduces the magnitude of potential increases in sea turtles interactions and white marlin discards predicted by the displaced effort model for the proposed rule. Nevertheless, NMFS is aware of the overall concerns regarding this area relative to potential increases in effort and concomitant effects on bycatch and incidental catch and will monitor fishing activity to determine whether a larger/longer closure is necessary in the Charleston Bump area. If necessary, NMFS would pursue further action through the FMP framework process.

Comment 4: NMFS should consider additional pelagic longline closed areas in a future rulemaking.

Response: NMFS agrees that additional closed areas may be necessary to address bycatch, bycatch mortality, and incidental catch, particularly to address sea turtle takes as discussed in section 5.8 of the FSEIS. Shifts in fishing effort patterns may also warrant future rulemaking to close affected areas. NMFS will continue to monitor the pelagic longline fleet throughout its range.

Comment 5: NMFS should change the shape, size, and/or timing of the South Atlantic proposed closed area.

Response: NMFS agrees. NMFS is closing the southern part of the proposed Southeast area below 31°N latitude (East Florida Coast) year-round in order to maximize the bycatch reduction benefits. The northern portion of the proposed closed area (Charleston Bump) is closed for the period of highest swordfish discards during February through April. NMFS may consider a larger closure in the Charleston Bump area if effort increases significantly in this area, resulting in increased incidental catches or discards of overfished HMS or protected species.

NMFS would pursue this action through the FMP framework process.

Comment 6: NMFS should include a closure of the Mid-Atlantic Bight and/or a Northeast area to pelagic longline gear.

Response: NMFS disagrees that this rule should close the Mid-Atlantic Bight and/or Northeast coastal statistical areas. The areas closed by this rule are considered temporal and spatial "hot spots" for HMS bycatch from U.S. pelagic longline effort within the U.S. EEZ, as evaluated by the frequency of occurrence and the relationship between total catch and discard rates. NMFS has included a closure in the mid-Atlantic area as part of the final HMS FMP to reduce bluefin tuna discards from pelagic longline gear. Nevertheless, NMFS recognizes that pelagic longline effort will likely increase in areas that remain open (as analyzed in the redistribution of effort model in FSEIS). By minimizing the size of the closure in the Gulf of Mexico and shortening the closed season for the Charleston Bump area, NMFS expects that the effects of effort redistribution would be lessened from those evaluated in the DSEIS and proposed rule. Considering HMS bycatch, closures of the Mid-Atlantic Bight, beyond the June pelagic longline closure for bluefin tuna discards, or in the offshore waters in the Atlantic Ocean off the northeastern United States are not warranted at this time. NMFS will continue to monitor the pelagic longline fleet throughout its range and will take appropriate action if necessary through the proposed and final rule process to reconfigure closures. In addition, as required by the BO, NMFS will consider measures to reduce and monitor interactions with sea turtles, particularly in the pelagic longline fishing grounds on the Grand Banks. Such measures may include area closures.

Comment 7: NMFS should close areas to both commercial and recreational pelagic fishing. NMFS should consider closing areas to recreational rod and reel fishermen, particularly to protect small bluefin tuna.

Response: NMFS disagrees. The closures included in the final rule address the requirements of national standard 9, while minimizing, to the extent practicable, the significant economic impacts that will be experienced by this fishery, as required by national standard 8. Monitoring programs in place do not identify the recreational fishery as a source of excessive bycatch. In fact, NMFS established a catch-and-release fishery management program in the Billfish Amendment in recognition of the operational patterns of the recreational

fishery to encourage further catch and release of Atlantic billfish. However, NMFS continues to address both monitoring of the recreational fishery and any bycatch mortality that does occur. At this time, NMFS encourages recreational fishermen to increase survival of released fish through the use of dehooking devices, circle hooks, and other gear modifications that may reduce stress on the hooked fish. Further, depending upon the availability of funding, NMFS will offer educational workshops in order to reduce bycatch in the recreational fishery.

Comment 8: NMFS should consider "rolling closures" to spread the impacts throughout the region.

Response: NMFS considered and rejected rolling closures. The HMS and Billfish APs advised NMFS that rolling closures may not be effective. MFS conducted analyses to consider closures with varying spatial limitations on a seasonal basis along the southeastern U.S. Atlantic coast; however, none were as effective as the final action (see section 7 of the FSEIS). Economic impacts of the closures were minimized, to the extent practicable, in light of the objectives of the conservation measures.

Comment 9: NMFS should use oceanographic conditions to define the size, shape, and timing of area closures.

Response: NMFS agrees that many life history characteristics of HMS are driven by oceanographic conditions, including the strength of the Gulf Stream in the Atlantic, the loop current in the Gulf, and the eddies that spin off these structures. By following long-term distributional patterns in establishing the temporal and spatial components of the closures, oceanographic conditions were indirectly utilized in defining and evaluating the effectiveness of the time/area closures. The sizes of the closures around the Charleston Bump and DeSoto Canyon are examples of how NMFS accounted for variations in the current patterns to establish the closed area boundaries.

Comment 10: NMFS should alter the closed areas to be consistent with Congressional proposals.

Response: NMFS disagrees. The objectives of the legislative proposals are not identical with those of this action. This final rule reflects the four objectives stated in the proposed rule: (1) maximize the reduction of finfish bycatch; (2) minimize the reduction in target catch of swordfish and other species; (3) consider impacts on the incidental catch of other species to minimize or reduce incidental catch levels; and (4) optimize survival of bycatch and incidental catch species.

NMFS has reviewed the various legislative proposals and provided, in testimony before Congress, an analysis of the relative effectiveness of the closures following the methods outlined in the FSEIS. In addition to bycatch reduction, the legislative actions also consider gear interactions and economic mitigation through a buyout program, which are beyond the scope of this rulemaking.

Comment 11: The closures proposed by NMFS ignore an historically high area of swordfish discards and nursery grounds in the DeSoto Canyon in the northeastern Gulf of Mexico.

Response: NMFS agrees and is closing an area in the northeastern Gulf of Mexico that includes the DeSoto Canyon. In the draft Technical Memorandum issued with the proposed rule, NMFS had evaluated the closure of a larger area in the Gulf of Mexico (area Bill D) that included the DeSoto Canyon. However, the primary objective for closures in the Gulf of Mexico in the proposed rule was to reduce billfish discards in the western Gulf of Mexico. In responding to comments on the use of live bait, NMFS noted in the FSEIS (see section 7.2) that the higher discards in the western Gulf were a likely result of fishing practices rather than a reflection of relatively higher abundance. Historically, catches of small swordfish were high in the DeSoto Canyon area; however there has been considerably less effort in this area in recent years, which is likely a reflection of the stricter minimum size limit for swordfish with no tolerance. Further rationale for the northeastern Gulf of Mexico closure is to prevent additional effort in this area by pelagic longline fishermen displaced from the southeastern U.S. Atlantic coast closures, which could negate the effectiveness of East Florida Coast and Charleston Bump closures in reducing swordfish discards.

Comment 12: NMFS should reconsider the proposed closed areas because the increase in the bycatch of blue marlin, white marlin, and large coastal sharks is not "worth" the decrease in swordfish bycatch expected to result from the proposed closed areas.

Response: The effort redistribution model used in the DSEIS and FSEIS is based on the assumption that all effort in the closed areas is randomly distributed throughout the remaining open areas and, as such, offers an estimation of the "worst-case scenario" from a biological perspective. This model estimates that discards of blue marlin could increase by 6.6 percent and white marlin by 10.8 percent. Blue marlin bycatch rates may be over-

estimated by the effort redistribution model because the model estimated bycatch rates by assuming random or constant catch-per-unit-effort in all remaining open areas. This estimation procedure could skew results for certain species if those species are concentrated in certain areas, instead of being randomly distributed over the entire open area (see section 7 and appendix C of the FSEIS for full description of analytical procedures). Pelagic longline effort in the Caribbean (fishing areas below 22° N. latitude) represents approximately 14 percent of the total U.S. Atlantic-wide fishing effort, but accounts for over half of the total blue marlin discards by U.S. pelagic longline vessels. These areas were not considered for closure since they are generally located outside U.S. EEZ waters. Therefore, it is likely that the no-effort redistribution model would be more applicable for blue marlin (12 percent reduction in discards). White marlin discards were less concentrated in the Caribbean (32 percent of total Atlantic-wide levels) and did not show any identifiable patterns, particularly after the live bait effects were removed from the catch patterns. Therefore, the effort redistribution model (11 percent increase in white marlin discards) is probably more applicable in this case, indicating that white marlin discards are problematic and will need to be closely monitored. The prohibition of live bait in the Gulf will potentially further reduce Atlantic-wide discard levels of blue marlin and white marlin by approximately 3 percent and sailfish by 15 percent. Because large coastal sharks are overfished, management efforts that reduce discards (33.3 percent under the effort redistribution model) are likely to be beneficial to stock recovery and, in that regard, meet the objectives of the final rule.

Comment 13: The closures included in the proposed rule will not be effective in rebuilding overfished HMS stocks unless huge areas of the Atlantic Ocean outside the U.S. EEZ are also closed.

Response: National standard 9 requires FMPs to take actions to minimize bycatch to the extent practicable. The management actions included in the final rule have been formulated to meet the bycatch reduction directive of national standard 9, consistent with the requirements of other national standards for FMPs. To the extent that reducing bycatch and bycatch mortality impacts juvenile and reproductive HMS populations, the final actions may augment rebuilding programs for the overfished HMS stocks. While NMFS agrees that unilateral

management action by the United States cannot rebuild overfished HMS stocks, the United States has been a leader in conservation of HMS resources and has taken many management actions (e.g., the time/area closures) to show the international forum our willingness to take the critical steps necessary to conserve these stocks. U.S. leadership has been used as a primary negotiation tool at ICCAT. The swordfish rebuilding program adopted by ICCAT in 1999 was based in large part on the rebuilding plan outlined in the HMS FMP. To the extent that the United States can use time/area closures and other bycatch reduction management strategies to convince other ICCAT member entities that bycatch can be minimized, the actions contained in the final rule may have a significant impact on Atlantic-wide rebuilding of overfished HMS stocks.

Comment 14: The entire Gulf of Mexico should be closed to pelagic longline fishing.

Response: NMFS disagrees that closure of the entire Gulf of Mexico to pelagic longline fishing is warranted. The proposed closure of the western Gulf of Mexico was predicated on the relatively higher billfish discards associated with the pelagic longline fishery operating in that area. Additional information and analyses obtained by NMFS subsequent to the publication of the DSEIS and proposed rule on December 15, 1999, indicate that prohibition of live bait could reduce blue and white marlin discards in the Gulf of Mexico by approximately 10 to 20 percent, and sailfish discards by 45 percent, depending upon the analytical procedure used. Closure of the DeSoto Canyon area in the northeastern Gulf of Mexico, although only a third the size of the western Gulf of Mexico closure (32,800 square miles versus 96,500 square miles), will provide a greater benefit in the reduction of swordfish discards (4 percent reduction Atlantic-wide versus a 3.1-percent increase under the effort redistribution model) and will prevent vessels displaced from the southeastern U.S. Atlantic coastal closures from fishing in an area with an historically high rate of swordfish discards. The cumulative benefits of the northeastern Gulf closure and live bait prohibition meet the objectives of the final rule by providing a reasonable alternative to reduce bycatch rates, while minimizing economic and social impacts throughout the Gulf of Mexico.

Comment 15: NMFS has already closed too many areas to commercial fishing. The proposed closures will eventually lead to total closure of the

entire Atlantic region to commercial fishing.

Response: NMFS disagrees that the final rule closures will lead to elimination of the commercial pelagic longline fishery. However, NMFS agrees that use of time/area closures as a fishery management tool must involve careful consideration of the impact of Agency action on all components of both the commercial and recreational fisheries. Implementation of practicable conservation measures that meet Magnuson-Stevens Act directives is the overarching objective of the Agency. To that end, NMFS has reduced the spatial and temporal constraints of the proposed closures and included a gear modification (prohibition of live bait) to help mitigate the economic and social concerns expected to result from the actions originally proposed.

Comment 16: Closure of the DeSoto Canyon area, in addition to the western Gulf closure, will displace vessels into the Atlantic and/or Caribbean, which will negate the conservation measures associated with the closures.

Response: NMFS disagrees because the effort redistribution model assumes that effort is displaced randomly throughout the remaining open areas. Therefore, the conservation benefits associated with the final action closures account for movement of effort into the Caribbean, Mid-Atlantic Bight, or any other open area. Further, since the final rule does not close the western Gulf of Mexico, it is likely that the limited fishing effort currently expended within the DeSoto Canyon closure area (approximately one-third the size of the proposed Gulf closure) will be dispersed largely within the Gulf of Mexico.

Comment 17: The proposed time/area closures are unjust, unnecessary, and inequitable and, as such, will result in further lawsuits against NMFS.

Response: National standard 9 of the Magnuson-Stevens Act requires that NMFS take action to reduce bycatch to the extent practicable. The use of time/area closures is a practicable means of reducing bycatch of HMS resources while considering the economic concerns of participants in the pelagic longline fishery who target these overfished, international fishery resources. The IRFA, RIR, and other components of the DSEIS clearly identified the significant economic, social, and community impacts associated with the proposed time/area closures. NMFS selected conservation measures in the final rule that meet the directives of the Magnuson-Stevens Act, while being mindful of the requirements of national standard 8 to minimize negative economic, social, and

community impacts, to the extent practicable.

Comment 18: The DeSoto Canyon closure is needed to protect a swordfish nursery area, but it needs to be larger to be more effective.

Response: NMFS agrees that the DeSoto Canyon area is an area with an historically high ratio of swordfish discarded to swordfish kept. NMFS does not agree that additional closed areas are warranted at this time. The analysis undertaken for the FSEIS included catch history from the entire northeastern Gulf of Mexico, east of the Mississippi River, and north of 26° N. latitude (general location of the U.S. EEZ). Although effort has been declining around DeSoto Canyon in recent years, NMFS has selected this area for a closure to prevent further effort from being expended in this area, either by displaced effort from the Atlantic or by vessels shifting operations from other areas of the Gulf of Mexico.

Comment 19: NMFS should have considered closures in the Caribbean, including the EEZ around Puerto Rico and the U.S. Virgin Islands, to protect spawning populations of swordfish and billfish.

Response: Closed areas in the Caribbean were considered. However, as discussed in the DSEIS and FSEIS, closures were generally limited to U.S. EEZ waters where they would have maximum impact on all pelagic longline fishing effort. NMFS agrees that the Caribbean waters support important HMS spawning and nursery areas as identified in the essential fish habitat components of the HMS FMP and the Billfish FMP Amendment. Pelagic longline effort in the Caribbean (fishing areas below 22° N. latitude) by U.S. flagged vessels is very effective in targeting swordfish with relatively low discard rates (approximately 6.7 fish kept to 1 discarded, as compared to an average 0.9 swordfish kept to 1 discarded in the DeSoto Canyon area). Conversely, the U.S. pelagic longline effort in the Caribbean represents approximately 14 percent of the total U.S. Atlantic-wide fishing effort, but accounts for over half of the total blue marlin discards by U.S. pelagic longline vessels. NMFS did not select a closure in the Caribbean area because of the extensive range of the fishing effort in the Caribbean, which occurs mainly in international waters. In addition, the configuration of the EEZ around both Puerto Rico and the U.S. Virgin Islands would make closures relatively ineffective.

Comment 20: NMFS should close the DeSoto Canyon area in addition to, not

in place of, the proposed western Gulf of Mexico closure.

Response: NMFS agrees that the DeSoto Canyon should be closed year-round to reduce swordfish discards and prevent an increase in fishing pressure in this area as a result of displaced effort from the East Florida Coast closure. However, NMFS does not agree that the proposed western Gulf of Mexico closure (March to September) is also warranted at this time. The final rule includes a prohibition on the use of live bait on pelagic longline gear in the Gulf of Mexico. Analysis of this alternative indicates that prohibiting the use of live bait is likely to be as effective in reducing sailfish discards as the western Gulf closure, and about half as effective in reducing marlin discards. However, in consideration of the magnitude of U.S. billfish discards relative to Atlantic-wide levels and the extent of the economic, social, and community impacts associated with the proposed western Gulf closure, modifying fishing practices is a reasonable alternative that effectively accomplishes the objective of reducing billfish bycatch, to the extent practicable, while allowing fishing to continue in the western Gulf of Mexico.

Comment 21: There is no reason for NMFS to close the DeSoto Canyon area to pelagic longline gear.

Response: NMFS disagrees. The rationale for closing the DeSoto Canyon area year-round to pelagic longline fishing is twofold. The first is to prohibit fishing in an area with an historically low ratio of swordfish kept to number of undersized swordfish discarded, which over the period of 1993 to 1998 has averaged less than one swordfish kept to one swordfish discarded. The second is to prevent further increases in swordfish discards as a result of effort displacement into this area from the Florida East Coast year-round closure.

Comment 22: The closures included in the proposed rule are more effective than the measures contained in various bills being considered in Congress.

Response: There are several bills currently before Congress. It is difficult at this time to predict whether any of the bills will be enacted and, if a bill is enacted, what measures it will contain. The objectives of the legislative proposals are also different in some respects from those of NMFS' final action.

Comment 23: Although the original proposed rule and the additional DeSoto Canyon closed area may not be contrary to ICCAT recommendations, they violate sections of the Magnuson-Stevens and Atlantic Tunas Convention

Acts. The action is not being taken to comply with ICCAT recommendations.

Response: NMFS disagrees that the proposed and final rules violate the Magnuson-Stevens Act and ATCA. In fact, if NMFS failed to address the issues developed in the final action, the Agency would be in violation of Magnuson-Stevens Act directives related to national standard 9. Further, the 1999 ICCAT recommendation established a dead discard allowance that will require the United States to reduce swordfish discards by 25 percent from 1998 levels (i.e., 443 mt to 320 mt) during the 2000 fishing year; any discards in excess of the dead discard allowance will be taken off the following year's quota. The dead discard allowance is subsequently reduced to 240 mt in 2001, 160 mt in 2002, and 0 mt by 2004. Thus, consistent with the ICCAT recommendation, NMFS must take action to reduce swordfish dead discards.

Gear Modifications

Comment 1: NMFS needs to do gear research specifically for the Atlantic pelagic longline HMS fishery. Results from gear modification research on other fisheries may not have the same effectiveness when applied to the Atlantic pelagic longline fishery.

Response: NMFS agrees that research on gear modifications would be most helpful if conducted in the Atlantic pelagic longline fishery. In fact, several gear-based data collection and research programs have been specifically directed on the Atlantic HMS pelagic longline fisheries. One study is looking at whether gear modifications, such as circle hooks, can reduce bycatch mortality and whether they are cost-effective. Results are either inconclusive or too preliminary for application in this final rule. Funding is very limited at this time, so research results from other study areas are often applied to similar fisheries (e.g., western Pacific tuna longline and Gulf of Mexico tuna longline fishery).

Comment 2: NMFS should provide exempted fishing permits (EFPs) to research vessels in closed areas to investigate the effectiveness of gear modifications and fishing practices to reduce bycatch and incidental catch interaction with pelagic longline gear.

Response: NMFS agrees. Researchers must obtain a Scientific Research Permit (SRP) or EFP from NMFS to conduct research in a closed area with pelagic longline gear. A mechanism exists whereby NMFS can grant an SRP/EFP in order to obtain data (50 CFR 600.745). If a research team submits the required information, including a research plan,

NMFS would consider granting an SRP/EFP subject to the terms and requirements of the existing regulations.

Comment 3: NMFS received comments both supporting and opposing a regulation requiring the use of circle hooks in HMS fisheries. Comments include the following: Require them on commercial and/or recreational HMS vessels; do not require them; they are safer than regular hooks, and better, cheaper, and more effective than the DSEIS indicated.

Response: NMFS agrees that circle hooks are a promising tool that can be used in many hook and line fisheries to improve survival of hooked fish and turtles that must be released. NMFS has funded a study, now underway in the Azores, to evaluate the effectiveness of circle hooks on sea turtle interactions and survival. If analyses indicate that circle hooks are a cost-effective way to increase turtle survival, NMFS may issue regulations requiring the use of such gear. NMFS seeks the cooperation of all fishermen to explore the use of circle hooks as a means to reduce bycatch mortality, which is less expensive and may have less economic impact than other measures (e.g., more extensive time/area closures). Many recreational anglers have already switched to circle hooks, particularly when fishing with dead bait, with several recent articles in sportfishing magazines reporting on the value of using circle hooks to reduce hooking-related mortality levels. In certain fisheries, commercial fishermen have already adopted circle hooks as well, as there is evidence of increased catch rates for some target species (e.g., yellowfin tuna).

Comment 4: Some commenters noted that NMFS should prohibit the use of live bait in the pelagic longline fishery. Conversely, other commenters noted that, if NMFS prohibits live bait, fishermen will switch from targeting tuna to targeting swordfish. Since many pelagic longline fishermen operating in the Gulf of Mexico have incidental swordfish permits, this might result in increased discards of swordfish.

Response: NMFS agrees that live bait should be prohibited. Live bait is used for 13 percent (logbook data) to 21 percent (observer data) of all pelagic longline sets in the Gulf of Mexico. Logbook and observer data indicate that blue and white marlin discards occur approximately twice as frequently on hooks with live bait; sailfish are discarded four to five times more frequently when live bait is used. Live bait is generally used to target yellowfin tuna, although dead bait is used on the majority of pelagic longline sets.

Prohibiting live bait may lead to additional use of squid or other dead bait, which may be less effective than live bait in catching yellowfin tuna, but is a reasonable alternative to a closure of the western Gulf of Mexico as a means of reducing billfish bycatch. Some fishermen may switch from targeting tuna (daytime fishery) to targeting swordfish with dead bait, thereby increasing swordfish discards. However, fishing for swordfish with pelagic longline gear generally takes place during night-time hours and has an added expense and complexity with the use of light sticks. In anticipation of fishermen targeting swordfish in the Gulf of Mexico in reaction to this prohibition, NMFS has implemented a time/area closure in a known swordfish nursery area in the eastern Gulf of Mexico (DeSoto Canyon) in an attempt to avoid the increased catch rates of small swordfish there. Further, if longline fishermen holding an Incidental category swordfish permit experience increased swordfish catch rates, NMFS may need to reconsider the incidental catch limit and the allocation of swordfish quota to the directed fishery. Prohibiting the use of live bait could be just as effective in reducing sailfish discards (approximately 15 percent reduction from the Atlantic-wide U.S. totals during 1995 through 1998) as the western Gulf closure. Although the live bait prohibition would be somewhat less effective in reducing marlin bycatch discards than the March to September area closure (e.g., blue marlin: 3.3 percent vs. a 7.2-percent reduction under the displaced effort model), it is less costly and is a practical alternative to the western Gulf closure.

Comment 5: NMFS should implement other gear modifications (e.g., decreasing length of longline, decreasing soak time, and timing of sets).

Response: NMFS agrees that gear modifications could be effective at reducing bycatch. However, many of these measures are difficult to enforce or could be circumvented by altering fishing patterns (e.g., additional sets made or increased soak time to offset a shorter mainline), resulting in no bycatch reduction. NMFS continues to support research projects regarding effectiveness of gear modifications.

Comment 6: NMFS should allow the U.S. Atlantic pelagic longline fishery 1 year to voluntarily reduce bycatch with the use of self-imposed gear modifications.

Response: As a result of a 1999 ICCAT recommendation setting Atlantic-wide discard quotas, the United States must

immediately reduce swordfish discards during the 2000 fishing year to 320 mt. This will have to be a significant reduction from 1998, when a total of 443 mt of swordfish discards from the North Atlantic were reported by the United States. The ICCAT recommendation also incrementally reduces the dead discard allowance to zero by the 2004 fishing year. Any dead discards over the annual allowance will be taken off the following year's quota. Therefore, NMFS has determined that it is necessary to initiate mandatory bycatch reduction measures at this time.

Comment 7: NMFS should limit the soak times of pelagic longline gear to reduce the number of dead discards.

Response: NMFS evaluated an alternative in the FSEIS that would reduce pelagic longline soak time to 6 hours. The strategy would reduce the amount of time that pelagic longline gear could be deployed and thus reduce fishing effort (hours/hook) for each longline set. The current range of soak time for pelagic longline gear is 5 to 13 hours. This alternative was rejected based on the practicality of enforcement and the likelihood that fishermen would make two sets during a day, or otherwise extend a fishing trip to execute a similar level of effort/trip. Since most billfish hit a longline hook during setting or retrieving, requiring a measure that forced a greater frequency of hooks moving through the water column could increase billfish discards. However, limiting soak to reduce sea turtle takes will likely be considered in developing alternatives to address concerns raised in the BO.

Environmental Justice

Comment 1: The proposed closed areas would disproportionately affect African-Americans in South Carolina, Vietnamese-Americans in the states bordering the Gulf of Mexico, and low-income crew members.

Response: NMFS considered environmental justice concerns as required by E.O. 12898 in selecting the preferred actions of the final rule. By minimizing the size of the closure in the Gulf of Mexico through prohibiting the use of live bait and by shortening the closed season for the Charleston Bump area, NMFS expects that the economic and social effects of the closures on minority groups and all other components of the pelagic longline fishing community will be minimized to the extent practicable.

Protected Species

Comment 1: NMFS should re-designate the longline fishery from a Category I to a Category II fishery under

the MMPA because the fishery bycatch meets the criteria for a Category II designation.

Response: NMFS classifies fisheries on an annual basis. Classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock, and then addresses the impact of individual fisheries on each stock. NMFS bases its classification of commercial fisheries on a variety of different types of information. The best source of information concerning the level of fishery-specific marine mammal incidental serious injury and mortality is the fishery observer program. If observer data are not available, NMFS may use fishermen's reports submitted per the requirements of the Marine Mammal Authorization Program since 1996 (or the Marine Mammal Exemption Program from 1989 to 1995), stranding data, data from other monitoring programs, and other sources of information. The Atlantic pelagic longline fishery has been monitored with about 2 to 5 percent observer coverage, in terms of sets observed, since 1992. The 1992–1997 estimated take was based on an analysis of the observed incidental take and self-reported incidental take and effort data. The 1998 stock assessment reports, which were used for the 1999 List of Fisheries, included data which placed the pelagic longline fishery into Category I. NMFS will reevaluate categories in developing the 2001 List of Fisheries. However, NMFS anticipates using serious injury data, which would likely cause the pelagic longline fishery to remain in Category I.

Comment 2: NMFS should be more concerned about fishermen than about sea turtles.

Response: NMFS is concerned about achieving conservation benefits of the final rule while at the same time minimizing expected economic impacts on fishermen and related businesses, to the extent practicable. However, NMFS also must be in compliance with the Endangered Species Act, which requires NMFS to take appropriate actions to protect endangered or threatened species (e.g., sea turtles). The final rule includes reasonable actions that meet requirements of the Magnuson-Stevens Act and ATCA (as it applies to swordfish discards) to reduce bycatch and seek long-term rebuilding of overfished HMS stocks, while balancing economic and social impacts. Even so, it is clear that the final actions will have significant social and economic impacts on various components of the pelagic longline communities. NMFS recognizes

those impacts and has noted possible sources of economic relief (see section 8.0 of FSEIS).

Comment 3: The projected increase in turtle takes as a result of the proposed closures (under the redistribution of effort model) is not likely because many boats are not capable of redistributing their longline effort to the Grand Banks.

Response: NMFS agrees that turtle bycatch rates may be over-estimated by the effort redistribution model because estimation of catch-per-unit-effort in the remaining open areas could be skewed if species are concentrated in one area (such as sea turtles in the Grand Banks or blue marlin in the Caribbean; see FSEIS for further information), rather than randomly distributed over the entire open area. Although fishing in the Grand Banks area requires a relatively larger vessel than currently utilized in some of the closed areas (e.g., east Florida coast) for practical and safety reasons, it is possible that some boats could commence fishing on the Grand Banks or increase current effort in this area due to the closures in other areas, resulting in potential increases in turtle interactions. It is not known at this time how many vessels are expected to redistribute their effort to areas and times where turtle interactions are highest, but fishing activities will be continually monitored through the VMS program, as well as through logbooks and on-board observers. The anticipated takes for loggerheads and leatherback sea turtles for pelagic longline gear established by the incidental take statement were exceeded during 1999, as discussed in section 5.8 of the FSEIS. The June 30, 2000 BO contained jeopardy findings for both loggerhead and leatherback sea turtles. NMFS is initiating efforts to address this issue, including possible regulatory and non-regulatory actions.

Dolphin/Wahoo Issue

Comment 1: Comments were received that the mahi "loophole" undermines the effectiveness of the HMS time/area rule; Vessels using longline gear to target dolphin (mah) should be prohibited from the HMS pelagic longline closed areas; NMFS should continue to work with the Councils to coordinate closed areas to reduce bycatch; If an exception is made for the closed area, HMS longline fishermen may move into the dolphin fishery.

Response: NMFS has notified the respective fishery management councils of the jurisdictional issues presented by vessels fishing with pelagic longline gear for species that are not directly managed by the Secretary of Commerce (e.g., dolphin). The South Atlantic

Fishery Management Council has prepared a Draft Dolphin and Wahoo Fishery Management Plan with a preferred alternative that would prohibit the use of pelagic longline gear for dolphin and wahoo in areas closed to such gear under HMS regulations. NMFS cannot predict whether HMS longline fishermen will move into the dolphin fishery, but it is unlikely that there would be a major shift in effort. Vessel operators may not fish with pelagic longline gear in closed areas if they hold an HMS permit; therefore, they would have to relinquish all HMS permits in order to do so. NMFS does not expect that longline fishermen would sell their swordfish and tuna permits in order to target dolphin for a seasonal fishery of limited size and duration.

Comment 2: NMFS should implement emergency regulations until the respective Councils can close the potential loophole posed by the longline fishery for dolphin.

Response: If the level of fishing effort targeting dolphin increases, it will most likely be due to factors other than the time/area closures implemented for bycatch reduction in the tuna/swordfish longline fisheries. It is unlikely that vessels affected by the HMS closures would give up HMS permits specifically to conduct a dolphin fishery. NMFS and the respective Councils can monitor effort, catch, and bycatch of non-HMS permitted longline fishermen targeting dolphin in the HMS closed areas and determine whether further action is required. The South Atlantic Fishery Management Council has already undertaken preliminary steps in preparing a proposed Dolphin and Wahoo FMP that includes parallel closures.

Comment 3: No billfish or swordfish are caught in the mahi fishery; NMFS should not shut down the mahi longline fishery; it has virtually no discards and the stock is healthy; NMFS needs to analyze the dolphin fishery more closely in evaluating the impacts of the pelagic longline time/area closure.

Response: Recognizing the jurisdictional issues, NMFS has asked the appropriate fishery management councils to examine management options guiding the use of pelagic longline gear to target dolphin. In the FSEIS, NMFS has included a more detailed discussion of the potential bycatch issues in the pelagic longline fishery for dolphin. Logbook reports from 1998 were examined for all sets made in the area from Key West, FL, to Wilmington Beach, NC. It was not possible to identify effort in the dolphin fishery with certainty, but sets were

separated into those targeting swordfish/tunas/sharks and those listing a target as "other." It was presumed that sets listing a target as "other" are predominantly targeting dolphin, and this was reflected in the nearly tenfold higher catch per set of dolphin. While swordfish and bluefin tuna discards were generally lower for the presumed dolphin sets, bycatch of billfish, sharks and bigeye, albacore, yellowfin, and skipjack (BAYS) tunas seems to be a concern. More specific information on catch occurring when pelagic longlines are set to target dolphin would be needed to confirm or refute the bycatch concerns. In the interim, to facilitate enforcement and to take a precautionary approach, NMFS has decided that HMS-permitted vessels should be prohibited from setting all pelagic longline gear in the closed areas, regardless of target species. It is possible that an operator of an HMS-permitted vessel who wishes to target dolphin could apply for an exempted fishing permit (EFP). If EFPs are issued, the data collected (e.g., logbook or observer reports) can be used to determine whether a dolphin fishery could be undertaken that would be consistent with the bycatch reduction objectives of the HMS FMP. However, such authorization for EFPs would have to be considered in consultation with the councils having management authority for dolphin.

Redistribution of Effort

Comment 1: More pelagic longline fishermen will relocate to open fishing areas than exit the fishery as a result of the time/area closures.

Response: To estimate the range of potential ecological impacts of the time/area closures, NMFS examined two scenarios for effort reallocation: (1) all effort in the closed area is removed from the system (worst-case alternative from the economic, social and community standpoint) and (2) all effort is randomly moved to available open areas (which may overestimate impact of effort if a species is not relatively uniformly distributed throughout the area—see discussion of sea turtle and blue marlin distribution in the FSEIS). Available information is insufficient for NMFS to estimate the number of vessels that may decide to discontinue fishing or to determine where the remaining vessels will relocate. However, if total U.S. pelagic longline effort is reduced by vessels leaving this fishery, the estimates of the effectiveness of the time/area closures will be underestimated.

Comment 2: The NMFS western Gulf of Mexico proposed closure would force displacement of pelagic longline effort

into known bycatch areas, particularly the DeSoto Canyon area in the eastern Gulf of Mexico, resulting in net losses in conservation effectiveness of the time/area closures.

Response: NMFS agrees that this is a possibility. The areas selected in the proposed rule were based on areas and times when discard rates were relatively higher than those in other temporal/spatial alternatives ("hot spots"). The overriding objective for the proposed closure in the Gulf of Mexico was to reduce billfish discards. A relatively higher discard-per-unit-effort was noted for marlin and sailfish in the western Gulf of Mexico. In conducting the analyses for the proposed rule, NMFS also recognized that there were discards of swordfish in the eastern Gulf; however, there was a relatively lower occurrence of billfish discards, particularly blue and white marlin, in this eastern area. Therefore, in consideration of the fact that the western Gulf area also had discards of undersized swordfish, NMFS selected this area for closure in the proposed rule. Information that became available subsequent to the preparation of the proposed rule and consistent with public comments received has provided additional insight into the differential bycatch of billfish from pelagic longline sets using live bait, a fishing practice which has occurred mainly in the western Gulf of Mexico. NMFS anticipated that this fishing technique would be moved to the eastern Gulf of Mexico if the proposed closure were implemented, resulting in an increase in billfish bycatch in this area. The final rule incorporates a prohibition on the use of live bait on pelagic longline gear which will reduce billfish bycatch without the need for a closure in the western Gulf of Mexico. As a result, NMFS re-examined other areas in the Gulf of Mexico and is closing the DeSoto Canyon and a portion of the west Florida shelf based on the historically high ratio of swordfish discards to swordfish kept in these areas. Further, this action will prevent an expansion of displaced fishing effort into this area following closures along the southeastern U.S. Atlantic coast.

Comment 3: Displaced boats will re-flag to another country or sell their vessel and gear to ICCAT non-member countries in the Caribbean, or other areas, which will negate any gain in the reduction of billfish and undersized swordfish discards by U.S. commercial pelagic longline effort.

Response: It is possible that U.S. owners will decide to sell their vessel(s) to citizens of one of the Caribbean countries. NMFS has information that

indicates that many Caribbean nations (some which may not be members of ICCAT) are interested in expanding their fishing fleets for HMS. NMFS is involved with many United States initiatives regarding issues of illegal, unregulated and unreported (IUU) fishing, including those developed through ICCAT and FAO. The recent ICCAT restrictions on swordfish imports from Honduras and Belize are evidence of this international effort. ICCAT also continues to work with Caribbean nations to discuss allocation criteria for these nations, as well as adherence to ICCAT recommendations, which has been a source of concern.

Comment 4: The time/area closures will increase competition in the shark fishery because pelagic longline vessels will re-rig to undertake bottom longline fishing.

Response: NMFS disagrees. The shark fishery operates under a limited access permit system. Most pelagic longline vessels have qualified for limited access shark permits. The level of retention allowable under an incidental permit is not sufficient to support profitable operations focusing on shark resources. While some pelagic longliners have directed permits and it is possible that some fishermen could purchase a directed shark permit, the total number of directed permits is capped, and the shark fishery operates under a quota system; therefore total effort and relative competition between vessels should remain unchanged.

Comment 5: NMFS will force pelagic longline fishermen with small vessels to fish farther from shore, which could be unsafe during inclement weather. NMFS should consider safety-at-sea implications of the proposed closed areas.

Response: NMFS agrees that vessel safety is an important component to be considered in developing reasonable management measures, as required by national standard 10 of the Magnuson-Stevens Act. Some pelagic longline vessels historically operating in the areas being closed are not capable of safely fishing farther out to sea in the open areas due to their size. However, the vast majority of pelagic longline effort targeting swordfish and tuna occurs in deep waters, generally in waters with depths in excess of 500 fathoms (3000 feet), requiring a vessel of sufficient size to safely handle open ocean conditions. The final rule closures should not adversely impact most of these vessels in regard to seaworthiness, particularly with the removal of the western Gulf of Mexico closure and reducing the temporal restrictions of the Charleston Bump

closure. However, there is a fleet of small pelagic longline vessels that fish the deep waters found relatively close to shore along the east Florida coast. This area will be closed year-round because of the magnitude of reported swordfish and billfish discards. If these vessels are moved to open areas that require fishing at a greater distance from shore, NMFS encourages vessel operators to follow U.S. Coast Guard-approved operating procedures and to exercise caution in determining the safe operating range for their sizes and types of vessels.

Comment 6: Directed shark fishermen should be allowed to catch more sharks since bycatch of large coastal sharks in the pelagic longline fishery would be reduced with the time/area closures.

Response: NMFS disagrees. Shark resources in the United States are either overfished (large coastal sharks), fully fished (small coastal) or unknown (pelagic sharks). Each shark category has a set harvest level that encompasses catch from all fishing sources. Time/area closures may result in an increase in pelagic shark discards and landings of approximately 8 and 4 percent, respectively, under complete effort redistribution. Conversely, the number of large coastal sharks discarded and landed from pelagic longline gear will likely decrease by 33 and 18 percent, respectively, which may increase the duration of the large coastal shark fishing season. However, further increases in shark quotas are not warranted at this time.

Comment 7: The effort redistribution model included in the DSEIS predicts an increase in BAYS tuna landings, but the United States has agreed to limit effort in the yellowfin tuna fishery under an ICCAT agreement.

Response: While NMFS agrees that, under the effort redistribution model, BAYS tuna landings may increase (mainly as a result of increased yellowfin tuna catches), the ICCAT agreement limits U.S. yellowfin effort to 1993 levels. The catch levels predicted by the effort redistribution model are based on total effort redistribution and, as such, are likely to be an over-estimation of actual effort and catches under the final rule time/area closures. As a result of the HMS FMP, a limited access system is now in place for the tuna pelagic longline fishery, and a recreational limit of three yellowfin tuna per person per trip was also implemented. Commercial yellowfin tuna landings in 1993 were 4,386 mt, while more recently (1996 to 1998), landings have averaged approximately 3,525 mt. The nearly 10 percent increase in BAYS landings predicted by the displaced effort model would increase

average annual landings to only 3,700 to 3,800 mt, without an overall increase in effort.

Comment 8: Fishermen can and will fish in closed areas with other types of fishing gear.

Response: In the FSEIS, NMFS analyzed the potential impacts of fishermen changing target species through redistributing effort to other fisheries in which the vessel already may be active, or pursuing new fisheries by purchasing permits, as necessary. The South Atlantic Fishery Management Council is currently holding public hearings on a proposed dolphin/wahoo FMP that includes a preferred alternative that would prohibit pelagic longline fishing for dolphin and wahoo within the spatial and temporal constraints of closures for the HMS pelagic longline fishery. This could reduce effort redistribution from HMS to the dolphin and wahoo fisheries.

Comment 9: If Agency actions force fishermen to fish in areas with high turtle interactions, then the Agency is responsible for any increase in take, not fishermen.

Response: NMFS disagrees. The final time/area closures along the southeastern U.S. Atlantic coast were temporally and spatially reconfigured to mitigate, to the extent practicable, the impact of effort redistribution on sea turtle interactions. Turtle bycatch rates may be over-estimated by the effort redistribution model because estimation of catch-per-unit-effort in the remaining open areas could be skewed if species are concentrated more in one area (like sea turtles in the Grand Banks) rather than randomly distributed over the entire open area. NMFS will continue to monitor the fishery after implementation of the final rule. As a result of the jeopardy findings for loggerhead and leatherback sea turtles, NMFS will issue additional regulations that may include further modifications to gear and/or fishing methods, closed or limited fishing areas, and expanded monitoring (see section 5.8 of the FSEIS).

Comment 10: The majority of directed swordfish and tuna pelagic longline fishermen are not active in other commercial fisheries.

Response: NMFS disagrees. Of the 329 fishermen with swordfish limited access permits who held valid permits as of May 9, 2000, approximately half held only HMS limited access permits. The other fishermen held a range of permits including king mackerel, Spanish mackerel, golden crab, reef fish, red snapper (both Class 1 and Class 2 licences), rock shrimp, snapper-grouper, and spiny lobster. In addition, some of

the vessel permit holders held permits in fisheries that are managed by the Northeast Regional Office.

Comment 11: The closure will have unknown benefits because reallocation of effort will change the catch composition.

Response: NMFS examined a range of impacts of effort reallocation, including removal of all effort from closed areas to redistributing all effort to available open areas. While the models used by NMFS provide estimates of potential increases or decreases in catch and discards, NMFS agrees that a full, quantitative assessment of effort reallocation cannot be made until the closures are implemented and fishermen develop new fishing patterns. However, the closures implemented through the final rule will significantly reduce impacts on the level of discards from the U.S. pelagic longline fishery in the U.S. EEZ, which was the goal of the action. NMFS will monitor vessel activity through the use of VMS, observers, logbooks, and dealer reports.

Comment 12: The time/area closures will force vessels to increase effort and/or move into other South Atlantic fisheries for which they hold permits. Boats will move into the bottom longline fishery and catch grouper, snapper, and tilefish or shift to other pelagic longline fisheries, like dolphin and wahoo, in either the impacted closed areas or other locations along the Atlantic coast.

Response: NMFS agrees that some vessels will likely expend effort in other fisheries. Although some pelagic longline fishermen who homeport their vessels in the closed areas have other permits (e.g., coastal migratory pelagics, snapper-grouper, charter vessels), many have only directed or incidental swordfish, shark and tuna permits. Most of the southeastern fisheries require Federal permits, some of which are issued under limited access programs. Limited access permits may not be available, which may limit the ability of displaced pelagic longline fishermen to target other species. Other vessels may move into other activities consistent with their fishing experience (e.g., recreational charter fishing). The dolphin and wahoo fishery resources are not under the direct management jurisdiction of the Secretary of Commerce. However, the Agency agrees that some pelagic longline effort may be directed toward dolphin and wahoo. The South Atlantic Fishery Management Council has prepared a proposed dolphin/wahoo FMP that includes a preferred alternative prohibiting pelagic longline fishing for dolphin and wahoo within the spatial and temporal

constraints of closures for the HMS pelagic longline fishery. The FSEIS provides an analysis of potential impacts of alternative fishing activity by displaced HMS pelagic longline vessels.

Analysis of Ecological Benefits of Closures

Comment 1: The DSEIS indicated that the proposed time/area closures would have a huge reduction in bluefin tuna discards, but reducing bluefin tuna bycatch is not listed as an objective of the Agency action.

Response: NMFS disagrees that reduction of bluefin tuna discards was not included as an objective of the proposed Agency action, which had four clear objectives: Maximize the reduction of finfish bycatch (which includes bluefin tuna); minimize the reduction in the target catch of swordfish and other species; ensure the incidental catch of other species remains unchanged or is reduced; and optimize the survival of released animals. Analysis of time/area closure effectiveness used for the proposed rule encompassed all closures for HMS, including the annual northeastern U.S. pelagic longline closure during June developed specifically to reduce bluefin tuna discards that was part of the final rule implementing the HMS FMP. Closures included in the final rule are listed by species and area to clarify the cumulative impacts for each spatial component. Bluefin tuna discards increased by 11 percent when pelagic longline effort was randomly redistributed throughout the operational range of the U.S. Atlantic pelagic longline fishery as a result of the East Florida Coast and Charleston Bump closures; however, when combined with the June closure already in place, the net effect on bluefin tuna is a 39-percent reduction in discards.

Comment 2: The Agency should have considered a more expansive scientific information baseline for evaluation of potential closures, including scientifically peer-reviewed literature prior to the 1995 to 1997 information included in the DSEIS, as well as more updated and/or near real-time data sources (e.g., satellite data).

Response: In preparing the FSEIS, the Agency expanded the data analyses to include logbook information from 1993 to 1998. These data provide further support for the temporal and spatial components of the time/area closures of the final rule. Historical scientific studies describing movement behavior of HMS, as well as oceanographic studies of current and water mass patterns were also reviewed in preparing the FSEIS. Setting closures or

other fishing activities based on near real-time satellite information on water or current patterns may be considered in future management actions, particularly in conjunction with the communication capabilities of the VMS systems required for all pelagic longline fishing vessels beginning September 1, 2000.

Recent scientific studies on the relationship between billfish discard rates relative to use of live and dead bait on pelagic longline gear were also used.

Comment 3: The evaluation of closed areas should be based on the ratio of catch to bycatch instead of absolute numbers of bycatch.

Response: NMFS agrees that the ratio of catch to bycatch should be used in evaluating which areas to close, but disagrees that the absolute numbers of bycatch should not be considered. In developing the final area closures, NMFS examined, where appropriate, the temporal and spatial variations of the ratio of bycatch to target catch, the absolute numbers of bycatch and target catch, and relative fishing effort. For example, an area that has a high discard to number kept ratio may be indicative of a problem area, depending upon the relative volume of fishing effort that is currently or historically conducted in the area. Conversely, an area that has a relatively high absolute number of discards but a low ratio of discards to number of fish kept would be evaluated based on the relative fishing effort in the area. The analytical methods are fully described in the DSEIS, and clarified, where appropriate, in the FSEIS.

Comment 4: A target bycatch threshold should be developed to allow for a tracking of the success of Agency actions.

Response: NMFS disagrees. The development of the proposed and final rules clearly follows a multispecies management approach, and' as such, it is inappropriate to set target reductions for specific species without considering the impact on the remaining portion of the catch composition. For example, if the time/area closures were simply based on reducing swordfish discards by a set percentage, this could disproportionately increase the level of bycatch, bycatch mortality, and/or incidental catch of other species. The four overarching objectives discussed in the DSEIS and FSEIS guided the Agency throughout the development of the proposed and final actions.

Comment 5: NMFS should investigate the effectiveness of the pelagic longline closure in the Pacific Ocean to evaluate potential impacts of closures along the U.S. Atlantic coast.

Response: NMFS agrees that all similar closures should be evaluated to

determine potential biological, social, and economic impacts of final Agency actions. The closure of nearly 1 million square miles of Pacific Ocean near Hawaii to pelagic longline fishing vessels has been in effect since December 23, 1999; therefore, information on the impacts is limited at this time.

Comment 6: Observer data should be used to evaluate accuracy of the logbook reports used in the NMFS time/area analyses.

Response: NMFS agrees that observer coverage is needed to ground-truth information provided in the mandatory logbook program. The Draft Technical Memorandum, included as part of the DSEIS, provides a discussion of the limitations of logbook data and explains the rationale for using these data. The Atlantic pelagic longline fishery has been monitored with about 2 to 5 percent observer coverage, in terms of sets observed since 1992, and is used to ground-truth the mandatory logbook data, and to provide specific biological information (e.g., tagging, obtaining tissue samples for genetic work). The observer information was used in developing the prohibition on the use of live bait.

Comment 7: The analyses of the time/area closures are flawed because of the dependence upon mis-reported information in the mandatory logbooks.

Response: NMFS disagrees that the analyses are flawed. While NMFS recognizes that there are limitations and constraints in the use of logbook information as discussed in the Draft Technical Memorandum and HMS FMP, these data undergo thorough review by NMFS scientists and can be used to identify catch trends and patterns over time. Also, if logbooks under-report bycatch as indicated in public comment, then the benefits of the time/area closures are even greater than predicted in the FSEIS.

Comment 8: Use of percentages in the analyses make it difficult to assess benefits of the time/area closures.

Response: To allow for valid analysis of temporal and spatial variations in closure effectiveness on a suite of target species and bycatch, it was necessary to have a common denominator for all comparisons. The total U.S. Atlantic catch, by year and species, was used for this purpose, and was provided in tabular form in the DSEIS. The percentages provided in the analyses can easily be converted to number by multiplying the percentage value by the appropriate annual total (landings and discards were considered as separate groups). In the FSEIS, NMFS further clarifies the use of percentages,

numerical values, and ratios of numbers caught to numbers discarded.

Comment 9: NMFS should not lump all BAYS together in the analysis of the time/area closures. Each tuna species should be separately analyzed, particularly for yellowfin tuna.

Response: NMFS agrees that it is important to separate out the impact of the time/area closures on the various species of the BAYS tuna complex. Atlantic-wide, yellowfin tuna and bigeye tuna represent over 91 percent of the U.S. pelagic longline fleet catch of BAYS tunas (YFT—70.4 percent and bigeye tuna—20.8 percent). In the Gulf of Mexico, the 99.1 percent of the BAYS harvested from the proposed western Gulf closed area consisted of yellowfin tuna; in the final rule closure of DeSoto Canyon, yellowfin make up 98.4 percent of the BAYS complex. The BAYS tunas in the closure of the southeastern U.S. Atlantic coast consist of 89.5 percent yellowfin tuna and 7.5 percent bigeye tuna. The potential changes in landings of yellowfin tuna, bigeye tuna, the aggregate BAYS complex, and bluefin tuna are summarized for each final action under the effort redistribution and no effort redistribution models described in the FSEIS.

Comment 10: NMFS should summarize the impacts of the time/area closures separately for the Gulf of Mexico and southeastern U.S. Atlantic coastal closures.

Response: NMFS agrees. Ecological and economic impacts may be better understood if summarized both separately and in combination, and, to that end, this presentation approach is taken in the FSEIS. Although the DSEIS combined the ecological impacts for the Gulf of Mexico and southeastern U.S. Atlantic coastal closures under the discussion of each alternative, the draft Technical Memorandum provided results of the no effort redistribution and effort redistribution models separately for each closure area.

Comment 11: NMFS should consider incorporating tagging data into the time/area analysis procedures.

Response: NMFS agrees that information from tagging studies of billfish, tunas, sharks, and other species released by recreational and commercial fishermen provides valuable data on the range and movement patterns of these species and, as such were included in the qualitative procedures used to identify general areas for potential closure.

Comment 12: The proposed Agency action is focused only on reducing swordfish discards, and does not consider the impacts on vessels.

Response: NMFS disagrees. The evaluation of the time/area closure fishery management strategy in the DSEIS and FSEIS followed a multi-species approach. Consistent with the objectives, patterns in the discards, bycatch and incidental catches of billfish, sea turtles, bluefin tuna, pelagic and large coastal sharks, and other overfished HMS were used to define time/area closures. The areas selected for closure in the final rule also seek to minimize the target catch of swordfish, tuna, dolphin, and other species and, thus, minimize the economic impacts on vessel owners. The evaluation of the impacts of the closures included all components of the pelagic longline catch, as well as those of dealers within the time/area closure locations.

Mitigation of Economic Impacts

Comment 1: NMFS should provide economic compensation for the displaced vessels and dealers who are negatively impacted from the closed areas (various vessel buyout schemes were suggested ranging from recreational permit fees to having the remaining commercial fishermen compensate those who go out of business; other schemes included employing all displaced longline fishermen in fish hatcheries). While vessel owners can sell their permits and receive some compensation, dealers cannot. NMFS should provide resources for retraining or education of displaced longline fishermen.

Response: NMFS recognizes that the time/area closures will adversely affect many vessels and dealers, and that the ripple effects of the closures will go beyond the immediate community of fishermen, and affect fishing families, associated businesses, and the larger coastal economy. NMFS also recognizes that the Magnuson-Stevens Act requirements to rebuild overfished fisheries and reduce bycatch are going to result in economic hardships—even closure of some businesses. Once the stocks are rebuilt, it may still not be possible for all the affected individuals to make a living because many fisheries are currently overcapitalized. NMFS has made a concerted effort to identify possible sources of economic relief for individuals and businesses affected by the regulatory measures in this rule. Some government agencies, such as the Small Business Administration, the Economic Development Administration, the Farm Credit System, the U.S. Department of Labor's Economic Dislocation and Worker Adjustment Assistance Act, may provide fishing industry participants with loans, training for new jobs, and/or grants for

economically stressed communities, and the Fisheries Finance Program could support an industry-sponsored vessel buyback. A summary of the types of buyback programs, loans, and government agencies that may be able to help are listed in section 3 of the FSEIS.

Comment 2: NMFS needs to consider other alternatives that might have fewer and lesser adverse economic impacts.

Response: In developing this final rule, NMFS considered and adopted a variety of options that minimize bycatch and bycatch mortality, achieve the same conservation goals, and mitigate the rule's economic impact. These options include smaller closed areas and/or shorter closed periods than were proposed. In addition, the final rule substitutes a prohibition on the use of live bait in the Gulf of Mexico for the proposed closed area in the western Gulf. These alternatives are likely to have less of an adverse economic impact on fishermen and communities than the alternatives in the proposed rule.

Comment 3: NMFS received a number of comments regarding permit buyouts, including the following: NMFS should buy out displaced longline vessels; NMFS should not buy out displaced longline vessels; thousands of businesses fail every day and those businesses do not ask tax payers to buy them out; NMFS should destroy any longline vessels that are bought out; and, without a buyout, many companies will go out of business.

Response: This rule does not include a fishing capacity reduction program (buyback program); however, NMFS may implement a buyback program for this fishery if circumstances warrant. Any buyback program will be implemented in accordance with the Magnuson-Stevens Act, NMFS fishing capacity reduction regulations, and other applicable law. Under section 312 of the Magnuson-Stevens Act, NMFS may implement buyback programs that purchase fishing permits from permit holders or, alternatively, it may implement buyback programs that restrict vessels from participating in other fisheries by requiring that they be scrapped or be subject to title restrictions. The buyback method selected will depend on particular circumstances present when such buyback program, if any, is implemented. Furthermore, NMFS has concluded that it does have the authority to initiate and implement buyback programs for fisheries under the direct management authority of the Secretary of Commerce. Regulations implementing section 312, published May 18, 2000 (65 FR 31444), provide that "for a fishery under the direct

management authority of the Secretary, NMFS may conduct a program on NMFS' own motion by fulfilling the requirements * * * that reasonably apply to a program not initiated by a request." Because of the significant negative economic impacts expected with this final rule, NMFS has made a concerted effort to identify possible sources of economic relief for individuals and businesses affected by regulatory measures in fishery management. A summary of the types of buyback programs, loans, and government agencies that may be able to help are listed in Section 3 of the FSEIS.

Comment 4: This proposed rule may cause Congress to abandon the legislative buyout that has been under consideration.

Response: NMFS announced in the 1999 HMS FMP that the Agency was committed to reducing bycatch and bycatch mortality, as required in the Magnuson-Stevens Act, and would proceed with rulemaking to address bycatch concerns. NMFS cannot predict what this rulemaking may have on Congressional action.

Comment 5: NMFS should recognize that there are economic and competitive disadvantages to businesses geographically close to the proposed closed areas.

Response: NMFS agrees and is aware of the potentially significant economic impacts to related businesses, not just to fishermen. However, these areas were not chosen with respect to the impacts on a specific region but rather to target "hot spots" for pelagic longline bycatch. Because of the anticipated significant economic impacts, NMFS has selected alternatives that minimize those impacts while still maintaining conservation benefits similar to those in the proposed rule. In the Gulf of Mexico, NMFS chose to prohibit live bait in lieu of the large Western Gulf closure and has also implemented a smaller closed area that focuses on swordfish bycatch reduction. Although this area has a year-round closure, it is also located offshore so that smaller fishing vessels may still be able to fish. Thus, businesses near this closure may not be affected to the same extent as they would be if the area extended to the coast. In addition, as discussed earlier, NMFS has made a concerted effort to identify possible sources of economic relief for individuals and businesses affected by regulatory measures in fishery management.

Comment 6: NMFS should reconsider limiting the capacity of the Atlantic pelagic longline fleet. NMFS should not implement further regulations and instead should monitor the fishery

while giving the limited access program a chance to "settle." Limited access was an important first step that has not been given a chance to provide benefits.

Response: NMFS agrees that limiting access to the fishery is an important step. In July 1999, NMFS implemented limited access in the pelagic longline fleet. While it is true that limiting access to this fishery could provide an incentive for fishermen to reduce bycatch because they have an investment in the future of the fishery, NMFS has a mandate under the Magnuson-Stevens Act to minimize bycatch, to the extent practicable. In addition, the limited access program in place now was designed to reduce latent effort, not to reduce fishing effort. As a result, there is still excess capacity in this fishery. For example, of the 450 permit holders who qualified for a directed or incidental swordfish limited access permit, only 208 reported landings in the pelagic logbook in 1998. While other permit holders may be reporting landings in other logbooks, NMFS believes that many permit holders who do not fish regularly can still be bought out by fishermen who may be more active. Therefore, as announced in the HMS FMP and the 2000 SAFE report and in addition to this rule to reduce bycatch and bycatch mortality in the pelagic longline fishery, NMFS continues to monitor the status of this fishery and, if necessary, will work with the APs to consider additional steps to reduce fishing effort.

Comment 7: NMFS should make fishermen pay for an observer instead of VMS.

Response: NMFS agrees that a user fee system for funding observer coverage could be beneficial. However, a VMS program to track vessels in areas where bycatch is a concern has some advantages in that it costs less, is less intrusive, and has some vessel safety benefits. NMFS will continue to examine means of applying user fees in fisheries subject to observer coverage. In the interim, the Atlantic pelagic longline fishery VMS requirement is effective beginning September 1, 2000.

Comment 8: Minimizing bycatch through large area closures will result in greater overall economic benefits for all fishing industry sectors.

Response: NMFS agrees that minimizing bycatch enhances rebuilding of overfished stocks and, over the long term, should increase the economic benefits for all fishing sectors. However, in the short term, large area closures will force many small entities, such as fishermen and dealers, out of business. NMFS has chosen to close the areas that will provide the greatest

conservation and economic benefits in both the short and long terms. Because of the jeopardy finding for loggerhead and leatherback sea turtles, NMFS will propose additional measures to reduce the level of turtle takes. This could include a closure of the Grand Banks for the months of September through December, modifications in fishing methods, gear modifications, and increased monitoring activities.

Comment 9: Every effort should be made to mitigate the economic loss to commercial fishermen; however, given the current strong economy, there is ample opportunity for those disadvantaged by the closures to make a financial recovery.

Response: NMFS agrees that the economic loss to the commercial fishermen must be minimized as long as the conservation goals can still be achieved. Fishermen and others who lose their job or go out of business as a result of this rule may be able to relocate to either a different job altogether, or to a different job within the fishing industry. To aid displaced individuals, NMFS identified possible sources of economic relief for individuals and businesses affected by regulatory measures in fishery management. A summary of the types of loans and government agencies that may be able to help are listed in 3 of the FSEIS.

Comment 10: NMFS needs to consider actions to minimize economic impacts associated with moving families to areas that remain open to pelagic longline fishing.

Response: NMFS is aware that some families will need to move as a result of these regulations and that the cost of moving may be high. To examine more fully these impacts, NMFS published a **Federal Register** document (65 FR 24440) on April 26, 2000, asking specifically for comments on the impact of delaying the effective date to provide sufficient time to relocate. The comments received are discussed here. Also, as a result of these concerns, NMFS is delaying implementation of some of these regulations for different lengths of time.

Comment 11: The DeSoto Canyon closure is keyed to reducing swordfish discards and the analysis focuses on the social and economic impacts on the swordfish longline fishermen and their associated fishing communities. Other fisheries and fishing communities are likely to be affected by this closures and should be considered in the analysis.

Response: NMFS agrees that a variety of fisheries and fishing communities should be considered in undertaking efforts to minimize bycatch and bycatch mortality. As this final rule is directed

at the activities of only pelagic longline fishermen, the analyses focus on the impacts to the pelagic longline fishery and communities. As NMFS collects additional information on other fisheries (e.g., recreational, bottom longline), NMFS may determine that additional rulemakings are needed to reduce bycatch and bycatch mortality in those fisheries. If NMFS undertakes such rulemakings, it will conduct analyses to determine the impact of those rules.

Comment 12: Many comments were received about the effective date. These comments included the following: NMFS should do the right thing and insist that the closures not be reduced and that they be implemented no later than 30 days after publication of the final rule expected on August 1; The closures must be enacted immediately without any delay; Fishermen and related businesses would need at least one full year prior to implementation to move and resettle into other regions; If NMFS is not going to provide compensation, NMFS needs to delay implementation by at least 6 months to relocate entire businesses, find a new docking facility, relocate staff, find a new church, find new schools for children, and find a new house; The swordfish rebuilding measures implemented last November at ICCAT are risk-prone and have less than a 50-percent chance of rebuilding in 10 years. Given this, NMFS needs to implement these closures immediately to reduce pressure on the stock and increase the chance of sticking to the rebuilding schedule.

Response: NMFS agrees that fishermen and related businesses will need time to relocate in response to the closures in this final rule. NMFS disagrees that even a short delay of these regulations would hinder rebuilding or cause irreparable harm to the resource. Any dead swordfish discards that happen between the publication of the final rule and implementation will be taken off the U.S. swordfish dead discard allowance included in the rebuilding plan. Thus, NMFS has decided to delay the implementation of the closures: 90 days for the DeSoto Canyon area (November 1, 2000) and 180 days (February 1, 2001) for the East Florida Coast closure, which coincides with the annual date that the seasonal Charleston Bump closure begins. Thus, the closures in the Southeast Atlantic would begin at the same time, making the regulations less confusing and allow fishermen and related businesses approximately 6 months to relocate if they so decide. The implementation of the DeSoto Canyon

closure is not delayed for as long, because this closure is not as large an area as is the one the Atlantic and it is further offshore. Thus, fishermen who have fished pelagic longlines in the DeSoto Canyon area may be able to find alternative fishing sites within the Gulf of Mexico without having to relocate the home port of the vessel, and less time is necessary to prepare.

Comment 13: Unless NMFS undertook a detailed analysis of the behavior of longline fishermen and processing industry to investigate the impacts of delaying the effective date (costs, vessel's choice, etc.), any decision to delay implementation would be essentially arbitrary.

Response: NMFS disagrees. NMFS believes that commercial fishermen, dealers, and processors provided enough information in their comments on how long and why delayed implementation is needed for NMFS to make an informed decision.

Comment 14: NMFS asked the wrong question in regard to delayed implementation. The correct question is what approach would produce the highest net economic benefits, not what are the short-term gains.

Response: NMFS believes that asking the commercial fishing industry why they need delayed implementation and how long a delay it should be provides information needed for NMFS to decide the optimal approach. NMFS does not believe the highest net economic benefit would be achieved if all of the commercial fishermen were asked to move within 30 days. Instead, NMFS believes it could be more beneficial to the fishermen and the consumer if commercial industries were given time to relocate while still giving them time to fish during this season.

Comment 15: NMFS' entire approach on this rulemaking is fundamentally flawed because the Agency does not have the ability nor the authority to initiate an effort buyout program for Atlantic HMS.

Response: NMFS disagrees. NMFS announced in the HMS FMP that it was committed to reducing bycatch and bycatch mortality and would initiate rulemaking for time/area closures based on comments received during that rulemaking. NMFS has previously concluded (65 FR 31444, May 18, 2000) that section 312 of the Magnuson-Stevens Act provides authorization for the Atlantic HMS buyout "on NMFS' own motion by fulfilling the requirements * * * that reasonably apply to a program not initiated by a request." While NMFS recognizes that a buyout program may provide some compensation for vessel owners, a

buyout program would not provide any compensation for other business owners. Instead, NMFS has explored other ways of minimizing economic impacts including smaller time/area closures, a prohibition on live bait, and delayed implementation.

Comment 16: Closing the DeSoto Canyon in addition to the western Gulf of Mexico would only increase any social and economic impacts to vessels and their support and supplier community-based infrastructures.

Response: NMFS agrees that closing both the proposed Gulf B area and the DeSoto Canyon would have even greater economic impacts than closing either one alone. In addition, preliminary analyses indicate that prohibiting live bait may have similar conservation benefits for billfish as closing the western Gulf of Mexico. For this reason, NMFS decided to close the DeSoto Canyon to minimize bycatch, particularly small swordfish, and prohibit live bait to minimize billfish bycatch.

Comment 17: The Vietnamese Americans who have settled in states bordering the Gulf of Mexico are especially vulnerable to social and cultural disruption since they are dependent upon commercial fishing as a traditional livelihood that provides stability.

Response: NMFS agrees that the Vietnamese American fishermen may be affected by the social and economic impacts of these regulations. However, NMFS mitigated impacts to the fishermen in these final regulations by deciding against closing the Western Gulf of Mexico and choosing to prohibit live bait. Thus, although these fishermen may need to alter the current method of fishing, they should not need to relocate.

Comment 18: NMFS failed to factor in the economic benefits from decreased swordfish discards which would be added to the United States' total allowable landings under the ICCAT swordfish rebuilding program if swordfish discards are reduced below ICCAT targets.

Response: NMFS disagrees that the Agency failed to factor in the economic benefits from decreased swordfish discards in relation to the 1999 ICCAT swordfish rebuilding program. NMFS recognizes that reducing dead discards is crucial in order for U.S. fishermen to continue to land the full swordfish quota allocated to the United States (see section 7 of the FSEIS). For a full analysis of the social, economic, and conservation benefits of the 1999 swordfish rebuilding program, see the

preamble to the proposed rule (64 FR 33519, December 15, 1999).

Comment 19: Adding the DeSoto Canyon area closure to the Western Gulf of Mexico closure still would not save that many blue and white marlins. NMFS must weigh that against the economic devastation the closures will cause.

Response: NMFS agrees that economic impacts must be considered. However, NMFS does not believe that Agency needs to "balance" the economic impacts against the conservation benefits. The Magnuson-Stevens Act mandates NMFS to rebuild overfished stocks, prevent overfishing, and minimize bycatch and bycatch mortality for all stocks, not just billfish. Recently, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the Magnuson-Stevens Act requires NMFS to give priority to conservation benefits and to consider adverse economic impacts if two alternatives achieve the same conservation benefits. NMFS recognizes that some regulations that meet this mandate will cause economic harm and has provided a summary of alternatives that may help affected fishermen and communities in Section 3 of the FSEIS. In addition, NMFS has analyzed many different areas and seasons in order to determine whether time/area closures will be effective at meeting the goals of this FSEIS, which time/area closures are the most effective, and which time/area closures are effective but have the least economic impacts. NMFS believes that the management measures chosen will meet all of the goals of this action and minimize the economic impacts, to the extent practicable.

Social and Economic Analyses

Comment 1: NMFS received comments on the extent of the impacts of the proposed closed areas on the fishing fleet, including: One-third of the fleet would go out of business; hundreds of coastal communities would be negatively impacted; many fishermen would need to relocate; and the closures fall disproportionately on minority and low-income communities.

Response: Comments received on the proposed rule helped NMFS to develop final regulations that would minimize the impacts of the potential closed areas while yielding similar (or better) conservation benefits. For example, many comments suggested that NMFS consider the DeSoto Canyon area both instead of and in addition to the proposed western Gulf closure (area Gulf B). NMFS found that the proposed Gulf B closure could reduce the total gross revenues from the entire pelagic

longline fleet by 6.4 percent while the DeSoto Canyon closure might reduce the total gross revenues from the entire fleet by 2.2 percent. In addition, while analyses indicate the Gulf B closure could increase swordfish discards by 3.9 percent, the DeSoto Canyon closure could decrease swordfish discards by 4.1 percent. In the South Atlantic, the proposed closure could reduce swordfish discards by 27.7 percent and reduce total gross revenues to the fleet by 19.2 percent while the final closure could reduce swordfish discards by 27.3 percent and reduce total gross revenues for the fleet by only 9.0 percent.

Comment 2: The closures will have almost no adverse impact on any group including commercial longline fishermen, as shown by NMFS' analyses. The economic and biological benefits of these zone closures far outstrip any commercial interests.

Response: NMFS disagrees that this rule will not have any adverse impacts. NMFS' analyses, as supported by numerous comments received, indicate that many fishermen, dealers, and related industries could go out of business as a result of this rule. In addition, this rule will have ripple effects throughout the entire fishing community, commercial and recreational, and into other jobs and industries such as mechanics, engineers, and fishing supply markets. The analyses conducted for this rule indicate that the closed areas and times will have positive biological impacts and significant negative economic impacts for some businesses. NMFS has tried to achieve the conservation goal of minimizing bycatch while minimizing the economic impacts.

Comment 3: Restrictions on commercial fishermen have economic impact not just on dealers and wholesalers but also on local grocery stores, welders, truckers, electrical technicians, mechanics, food banks, and other people in all communities.

Response: NMFS agrees that this rule will have indirect impacts beyond the immediate fishing industry. However, non-fishing industries are already dependent on a range of businesses and industries. Although some initial adverse impacts may occur, these indirectly affected industries should be able to adjust through increased business in other non-fishing sectors.

Comment 4: The economics of the pelagic longline fishery are integrated with other fisheries from a dealer's perspective.

Response: NMFS agrees. In both the initial and final regulatory flexibility analyses and the regulatory impact review, NMFS analyzed the impact of

this rule on dealers. NMFS stated that, as a result of this rule, some dealers may lose a substantial amount of fish previously supplied from fishermen who have been issued a directed or incidental swordfish permit. However, the actual amount of gross revenues dealers lose will depend on the type of fish and the amount of fish dealers can obtain from other fishermen and other fisheries. Although NMFS believes this regulation will have a significant economic impact on HMS dealers who are located in coastal ports adjacent to the closed areas, most dealers are not as specialized as fishermen are, and they may be in a position to develop alternative business opportunities (e.g., purchases of other domestic fish products, import/export, value-added processing).

Comment 5: Closing the DeSoto canyon area will force some businesses to close.

Response: NMFS agrees; assuming no effort redistribution, the economic analyses for the DeSoto Canyon closure indicate that approximately eight vessels (4 percent) would lose half of their gross revenues and seven dealers who received fish from limited access permit holders (5.6 percent) would lose business volume equal to about half of the fish now handled. However, the economic impacts of the DeSoto Canyon are smaller than the anticipated economic impacts of the proposed Gulf B closure (12 vessels and 3 dealers losing half of their business). In addition, the closure of the DeSoto Canyon area has greater biological benefits for undersized swordfish than the proposed Gulf B closure. Thus, although some vessels may still go out of business as a result of this closure, the DeSoto Canyon area closure minimizes the economic impacts for most individuals. Also, the DeSoto Canyon area is located offshore, so smaller fishing vessels may still be able to fish adjacent open areas without relocating. This is not true of the Gulf B closure, which would have forced small vessels owners who wished to continue to fish to relocate.

Comment 6: With the closures, pelagic longline fishermen are likely to move into other areas. Many existing fishermen and countless others working in those areas will be devastated by the concentration of boats. NMFS has failed to analyze the impact of displaced fishermen on communities in the open areas.

Response: NMFS agrees that with this rule, many pelagic longline fishermen are likely to move into other areas. While this rule may increase user conflicts in some areas, NMFS feels that

this relocation will increase the social and economic benefits in many communities by increasing the level of economic activity in the area, including employment. It is likely that some dealers and marinas in the open areas or along the edges of the closed areas will see an increase in business as fishermen move. Other support businesses near the open areas will likely be similarly influenced. Also, communities in the closed areas may have some economic relief if they transfer effort from commercial fishing to recreational fishing. This may have the added benefits of lessening user conflicts in other areas and enhancing the recreational experience. In addition, due to the shorter Charleston Bump closure and the smaller DeSoto Canyon closure further off the coast, some fishermen in those areas may decide not to relocate.

Comment 7: Even though the quantity of swordfish available to consumers may not decrease due to imports, the quality of fresh swordfish will. Fresh fish should be available to everyone, not just to those who have the economic means to get it themselves or live across a line on a map. Even with a buyout, the level of economic activity will be diminished and consumers will lose access to the freshest product.

Response: NMFS agrees that it is advantageous when fresh fish is available to everyone, and future generations are considered in efforts to develop sustainable fisheries. For that reason, NMFS is working to rebuild overfished fisheries and to reduce bycatch and bycatch mortality while minimizing the economic impacts with methods such as time/area closures and gear modifications, without banning pelagic longline gear. These methods will allow the fishery to continue to provide as much fresh fish as possible.

Comment 8: This proposed rule should be considered as significant under Executive Order (E.O.) 12866.

Response: Both NMFS and the Office of Management and Budget (OMB) concluded that this rule does not meet the criteria for classification as "significant" for purposes of E.O. 12866 review. However, NMFS has prepared initial and final regulatory flexibility analyses as required by the Regulatory Flexibility Act (RFA). It should be noted that a rule could have a significant economic impact for purposes of the RFA without the rule being considered significant under the criteria of E.O. 12866.

Comment 9: The costs of the time/area closures have been overestimated while the benefits have been underestimated. NMFS has overestimated the man-hour cost of circle hooks. Many economic

benefits have been underestimated or omitted from the analysis of the economic impact of the proposed closures.

Response: NMFS agrees that some of the costs have been overestimated and some of the benefits have been underestimated. In both the initial and final regulatory flexibility analyses and the regulatory impact review, NMFS estimated the maximum economic impact of each alternative and understated many of the benefits. This is different than the analyses NMFS conducted to analyze the conservation impacts. Those analyses estimated the conservation impacts under no effort redistribution and effort redistribution models. The no effort redistribution model allowed NMFS to estimate the maximum biological benefits. The effort redistribution model allowed NMFS to estimate the minimum biological benefits. For the economic analyses, NMFS assumed no effort redistribution. This model allowed NMFS to estimate the maximum economic impact of the final regulations. If NMFS had assumed effort redistribution, the economic analyses would have indicated no change from the status quo or, perhaps, an increase in gross revenues (see section 7 of the FSEIS). While NMFS believes that the actual costs and benefits of the regulations will be somewhere between status quo and the costs described in the analyses, NMFS used the estimates from the most conservative models to make its decisions. This means that, for the biological estimates, NMFS used the effort redistribution model, and for the economic estimates, NMFS used the no-effort redistribution model. However, NMFS believes that many fishermen and related industries will adapt to the regulations and will continue to work in either the HMS fisheries or in others. However, because NMFS cannot predict the behavior of individuals, NMFS cannot estimate the exact cost or benefit any regulation will have. In addition, NMFS recognizes that the ripple effect of the closures will impact other business that provide goods and services to the pelagic longline fishery (e.g., tackle manufactures and suppliers; dock-side services, including ice, bait, fuel, dockage, labor; and vessel manufacture and repair). Although the final regulatory flexibility analysis and regulatory impact review provide a more thorough discussion of economic factors associated with the final Agency actions, NMFS does not have the necessary detailed economic information to make a quantitative

assessment of the impacts on fishery support businesses.

Comment 10: The use of gross revenues to quantify impacts does not provide an accurate assessment of the economic impacts of the proposed rule; approximating loss changes by using average vessel costs would be a more appropriate technique.

Response: NMFS agrees that using net revenues instead of gross revenues would provide a more accurate assessment of the economic impacts. However, as described in the HMS FMP, NMFS has only one estimate of the average variable costs for vessels in the pelagic longline fishery. Removing this estimate from every estimate of gross revenues would be the same as removing a constant and would result in the same estimates as those from gross revenues in terms of percent change in net revenues. Thus, NMFS prefers, at this time, to discuss the impact in regard to gross revenues and variable costs separately. However, NMFS is working on expanding its collection of social and economic data. NMFS is seeking approval to make the economic add-on to the pelagic logbook data collection mandatory for selected vessels. This information could be used in future rulemakings to estimate the net revenues for each vessel.

Comment 11: The documents do not have enough data on people and the lives this rule will affect. Because of this, the rule fails to fully assess the social and economic impacts. NMFS needs to expand the social impact assessment.

Response: The data used to examine the alternatives considered in the rulemaking constitute the best available data. However, NMFS agrees that additional data will be beneficial to future analyses. Therefore, NMFS is increasing efforts to collect social and economic data for use in future analyses, such as through the cost-earnings add-on to the pelagic logbook and charter/headboat logbook, and social and economic data surveys to be administered to tournament participants.

Comment 12: NMFS needs additional information regarding any social and economic impacts from the proposed rule on the recreational fishing industry.

Response: The proposed rule and FSEIS included a discussion of the value of recreational HMS fisheries and the potential increases in fishing success as a result of the closure of commercial pelagic longline fishing along the U.S. Atlantic coast. Given the potential benefits of the rule on the recreational fishing industry and the comments received, NMFS expanded

the discussion of the impacts on recreational fishermen in the final rule documents.

Comment 13: If the closures aid in the recovery of billfish, sharks, tunas, and swordfish, there will be tremendous economic gain in the recreational fishing sector. Healthy fish populations produce more economic benefit when they are used for recreational fishing first. The economic benefits of recreational angling have been demonstrated many times.

Response: NMFS agrees that the recreational fishing industry provides many economic benefits and employment. The 1988 Billfish Fishery Management Plan, which prohibited commercial vessels from possessing billfish, recognizes the importance of the recreational billfish fishery. Although increasing the recreational fishery benefits and decreasing user conflicts are not an objective of the rule, NMFS realizes that such benefits could occur as a result of the regulations.

Comment 14: NMFS needs to evaluate the economic impacts on recreational fishermen in the mid-Atlantic Bight that may result from increased interactions with displaced pelagic longline fishing activity.

Response: NMFS agrees that displacement of pelagic longline effort may have an impact on the remaining open areas in the Atlantic. Accordingly, NMFS includes a discussion of additional management measures specifically for the mid-Atlantic Bight to reduce potential interactions with endangered/threatened species and with recreational anglers. In addition, the reduced time/area closures will not only minimize economic impacts on the commercial fishing industry, but also reduce user conflicts that may have occurred under the proposed rule if effort had been concentrated into smaller remaining open areas. For example, NMFS reduced the closure along the Atlantic coast, particularly the Charleston Bump area. This should help to minimize any user conflicts that may have occurred as a result of the proposed rule because some commercial fishermen in the Charleston Bump area may decide not to relocate north. However, the goal of this regulation is to reduce bycatch and bycatch mortality in the pelagic longline fishery, consistent with the Magnuson-Stevens Act, not to reduce user conflicts. NMFS will continue to monitor the impacts of this regulation on the environment and fishing interests. If necessary, NMFS will work with the APs and may issue additional regulations in order to reduce user conflicts.

Comment 15: If one compares the 1997 summary economic statistics in the IRFA with the DSEIS and the 1998 summary statistics in the supplemental information about DeSoto Canyon, it appears that the fishery is collapsing.

Response: NMFS disagrees. The level of participation in the fishery may appear to have declined because the IRFA undertaken for the proposed rule and the DSEIS used data from the northeast logbooks, whereas the analysis for the supplemental DeSoto Canyon alternative did not. The use of these northeast logbooks in the DeSoto Canyon analysis would increase the number of vessels that reported landings in 1998; however, most of these vessels reported few, if any, landings from areas in or near the final time/area closures, and would not be directly affected by the DeSoto closure. In addition, the average gross revenue per permit holder increases by 21 percent when comparing the 1997 data with the 1998 data (\$113,173 versus \$137,126).

Comment 16: While smaller areas would minimize the economic impacts on commercial fishermen, the District of Columbia Circuit Court of Appeals recently held that conservation concerns outweigh concerns about the potential economic impacts of fishery regulations.

Response: NMFS agrees that conservation concerns are important. However, NMFS also recognizes that the proposed rule would have significant economic impacts. For this reason, NMFS re-examined the data and revised the final actions to achieve similar, or better, conservation impacts while reducing the economic impacts. NMFS feels that the suite of final actions (the revised time/area closures and the live bait prohibition) will have greater conservation benefits than the proposed regulations and serves to better mitigate economic impacts.

Comment 17: The proposal violates the Regulatory Flexibility Act and would create social and economic devastation to fishing families and communities.

Response: NMFS disagrees that the proposed or final regulations violate the RFA. The RFA imposes an analytical requirement and specifies procedures for assessing the impacts of proposed regulations on small entities. Federal Agencies must determine the economic impact, explore feasible alternatives for reducing the economic impact, and explain the reason for the regulatory choice. Further, the RFA requires that the Federal Agency obtain public comment on the analysis, and that comments be addressed in a justification of the final action. NMFS believes that the analyses in the

proposed rule and supplemental information meet all the requirements of the RFA. NMFS recognizes that the final regulations will have large impacts on many fishing families and communities but notes that the RFA does not preclude an Agency from implementing regulations having such impacts. NMFS chose final actions that meet the conservation goals and minimized the economic impacts, to the extent practicable.

Comment 18: Regional market gluts, especially associated with bad weather events and/or quota closures, should be expected to reduce ex-vessel prices.

Response: NMFS agrees that the time/area closures may have some impact on ex-vessel price particularly if closures or bad weather keep commercial fishermen from fishing in the open areas. However, given the extent of the remaining open areas in the Gulf and along the Atlantic coast, NMFS does not believe that the time/area closures would change the ex-vessel price significantly or cause significant market gluts.

Comment 19: NMFS should omit dealers who only import foreign fish from the analysis; in reality, domestic dealers who primarily offload and purchase "trip-fish" are few and far between and those in the closed areas will be impacted far greater than NMFS has analyzed.

Response: NMFS agrees that dealers who purchase most of their fish from vessels that now fish the designated closed areas will be greatly affected by these regulations. However, neither the IRFA nor FRFA considered imported fish. Instead, these analyses only considered fish sold to dealers by swordfish limited access permit holders.

Comment 20: Pelagic longline vessels need to gross at least \$500,000 year to be profitable; NMFS' estimate for gross ex-vessel revenues is too low.

Response: NMFS disagrees that the estimate for average ex-vessel gross revenues used in the IRFA and FRFA is too low. A number of studies performed on the voluntary economic add-on of the pelagic logbook indicate that many fishermen are operating on the margin and are not profitable. One study found that the average gross revenue per vessel was \$118,804. This is similar to the average of \$113,173 used in the IRFA and \$137,126 used in the FRFA. Thus, while some vessels may gross over \$500,000, the majority of vessels do not.

Changes From the Proposed Rule

For reasons explained in the responses to comments listed in the preceding text, NMFS has modified the proposed rule to balance bycatch reduction objectives with the need to

mitigate economic impacts. The proposed western Gulf of Mexico closure has been changed to a Gulf-wide prohibition on the use of live bait with pelagic longline gear. Also, the year-round DeSoto Canyon closed area has been added to further reduce dead discards of small swordfish. The proposed southeastern United States closed area has been split into northern and southern components: a seasonal (February 1– April 30) closure for the Charleston Bump area and a year-round closure for the Florida East Coast area.

To facilitate enforcement, several new definitions and prohibitions were added, and the proposed descriptions of fishing gear and the conditions for transit of the closed areas were revised. These revisions prohibit fishing activity of any type, regardless of gear actually deployed or target species, when a vessel issued an HMS permit is in a closed area with pelagic longline gear on board. Additionally, this final rule establishes a rebuttable presumption that fish on board a vessel in a closed area were taken in the closed area with a pelagic longline if that gear is on board. This imposes a burden on the vessel operator to demonstrate that such fish were taken outside the closed area (e.g., logbook entries, VMS signature).

Conclusions

In this final rule, NMFS prohibits pelagic longline fishing in areas with relatively higher bycatch rates because this alternative would best address the conservation and management objectives embodied in the FMP as required by the Magnuson-Stevens Act and ICCAT recommendations. Under the effort redistribution model, the final time/area closures, in conjunction with the live bait prohibition, are expected to reduce swordfish discards by 31 percent and sailfish discards by 29 percent; blue marlin and white marlin discards could increase by 3 percent and 7 percent, respectively. The final action time/area closures in the DeSoto Canyon, East Florida Coast and Charleston Bump could reduce the number of swordfish kept by 13 percent and the number of dolphin kept by 18 percent, while BAYS tunas landings would increase by nearly 10 percent.

The final area closures, together with the ban on live bait longlining in the Gulf of Mexico, appropriately meet the objectives of the Billfish and HMS FMPs and have the greatest likelihood of reducing bycatch while minimizing, to the extent possible, adverse impacts on fishing revenues and costs. Should future research indicate that practicable gear modifications could further reduce bycatch of managed HMS and/or

protected resources, NMFS will consider those gear modifications in conjunction with, or as an alternative to, time-area closures. In addition, NMFS will address turtle bycatch in the pelagic longline fishery in a separate rulemaking (see the following ESA discussion). Future regulatory measures to reduce sea turtle bycatch may involve additional area closures and/or further modifications to fishing gear and methods in defined areas of high interaction rates.

NMFS notes that there are similarities and differences between the time-area closures for pelagic longline gear contained in this final rule and those contained in legislation pending before Congress. Should any of the Congressional bills become law, NMFS will modify the measures contained in this final rule as necessary.

Compliance Guide

Under the Small Business Regulatory Enforcement Fairness Act of 1996, Federal Agencies are required to provide small business entities with a plain-language summary of how to comply with new regulations. Copies of the compliance guide for this final rule are available from Rebecca Lent (see **ADDRESSES**). To facilitate distribution, the compliance guide is also included in this document:

Q1: I am a recreational fisherman. Will these regulations affect me?

A: No. These regulations only affect commercial fishermen who use pelagic longline gear in the Atlantic ocean and have a Federal permit for Atlantic HMS.

Q2: I use pelagic longline gear. Will these regulations affect me?

A: Yes, if you have a Federal permit for Atlantic HMS. These regulations will prohibit you from fishing with pelagic longline gear in certain areas and times and from using live bait in the Gulf of Mexico. The Gulf of Mexico is the area of the U.S. EEZ west of 83° W. longitude as defined in 50 CFR 600.105 (c).

Q3: What is longline gear?

A: A longline is fishing gear that is set horizontally, either anchored, floating, or attached to a vessel, and that consists of a mainline with three or more leaders (gangions) and hooks, whether retrieved by hand or mechanical means.

Q4: What is pelagic longline gear?

A: Pelagic longline gear is defined as a longline that is suspended by floats in the water column and that is not fixed to or in contact with the ocean bottom. Your vessel has pelagic longline on board when:

1. A power-operated longline hauler,
2. A mainline,
3. High-flyers,

4. Floats capable of supporting the mainline, and

5. Leaders (gangions) with hooks are on board. Removal from the vessel of any one of these five elements constitutes removal of pelagic longline gear.

Q5: What are the areas where I can't fish using pelagic longline gear?

A: As of November 1, 2000, you will not be able to fish at any time using pelagic longline gear in the DeSoto Canyon area. This area, composed of two squares offshore of the west coast of Florida, is defined as the area within the following coordinates: 30°00' N. lat., 88°00' W. long.; 30°00' N. lat., 86°00' W. long.; 28°00' N. lat., 86°00' W. long.; 28°00' N. lat., 84°00' W. long.; 26°00' N. lat., 84°00' W. long.; 26°00' N. lat., 86°00' W. long.; 28°00' N. lat., 86°00' W. long.; 28°00' N. lat., 88°00' W. long.; 30°00' N. lat., 88°00' W. long.

As of February 1, 2001, you will not be able to fish at any time using pelagic longline gear in the East Florida Coast area. This area, located along the east coast of Florida through Georgia, is defined as the seaward area within the following coordinates: starting at 31°00' N. lat. near Jekyll Island, Georgia, and proceeding due east to 31°00' N. lat., 78°00' W. long.; 28°17' N. lat., 79°00' W. long.; then proceeding along the boundary of the Economic Exclusive Zone (EEZ) to 24°00' N. lat., 79°30' W. long.; then connecting by straight lines the following coordinates in the order stated: 24°00' N. lat., 79°30' W. long.; 24°00' N. lat., 81°00' W. long.; 24°00' N. lat., 81°47' W. long.; then proceeding due north to intersect the coast at 81°47' W. long. near Key West, Florida.

Also, as of February 1, 2001, you will not be able to fish using pelagic longline gear from February through April each year in the Charleston Bump area. This area, located off of North Carolina, is defined as 34°00' N. lat. near Wilmington Beach, North Carolina, and proceeding due east to connect by straight lines the following coordinates: 34°00' N. lat., 76°00' W. long.; 31°00' N. lat., 76°00' W. long.; then proceeding due west to intersect the coast at 31°00' N. lat. near Jekyll Island, Georgia.

Q6: Are all three areas closed year-round?

A: No. The Charleston Bump area is closed only February 1 through April 30 of each year. The other two areas, DeSoto Canyon and East Florida Coast, are closed year-round.

Q7: Are there any gear or fishing method restrictions in this rule?

A: Yes. As of September 1, 2000, in the Gulf of Mexico, pelagic longline fishermen are not allowed to use live bait. Setting up a live well or

maintaining live baitfish on board is prohibited. You may not have a tank or well attached to an aeration or water circulation device or have live baitfish if a pelagic longline is on board.

Q8: I am a recreational fisherman. Can I use live bait?

A: Yes. These regulations do not affect recreational fishermen.

Q9: I am a commercial fisherman but I don't use pelagic longline. Will these regulations affect me?

A: As long as you do not have a pelagic longline on board your vessel, you will be able to fish in the closed areas. See question number 4 above for an explanation of the five elements of pelagic longline gear.

Q10: I use pelagic longline gear but do not have a limited access permit to fish for highly migratory species. Will these regulations affect me?

A: These closed areas and gear restrictions apply only to commercial fishermen who hold Federal permits for Atlantic HMS. While unpermitted vessels may fish for other species with pelagic longline gear in these areas, no tunas, swordfish, billfish, or sharks may be retained on board those vessels. However, NMFS is working with the Regional Councils to ensure consistency between regulations for all pelagic longline fisheries.

Q11: Will I need to buy a vessel monitoring system (VMS)?

A: If you are a commercial fisherman with Federal permits for Atlantic HMS and you have pelagic longline gear on board, you will need to have a VMS operational by September 1, 2000.

Q12: Can I transit the closed areas or will I need to go around them?

A: If you have pelagic longline gear on board and possess a Federal Atlantic HMS permit, you will be allowed to transit the area if your vessel has a working VMS unit, but you will not be allowed to fish with any gear type. If you have pelagic longline gear on board, it is assumed that any fish on board were caught with pelagic longline in the closed area and you will have to demonstrate that the fish were harvested outside the closed area. If you do not have pelagic longline on board, you may fish in the area.

Q13: Is there a vessel buyback program associated with this rule?

A: No. This rule does not have a buyback program associated with it. Legislation pending before Congress may address vessel buybacks.

Q14: I have the Federal swordfish, shark, and tuna limited access permits. If I decide to leave the pelagic longline fishery, can I sell my permits?

A: Yes. You can sell your limited access permits individually, as a group,

with the vessel, or without the vessel. If you have directed permits, upgrading restrictions for horsepower, length overall, and net and gross tonnage apply. For more information on transferring or renewing limited access permits, please contact the NOAA Fisheries Southeast region permit office in St. Petersburg, FL, at (727) 570-5326.

Classification

This final rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.*

NMFS prepared an initial regulatory flexibility analysis for the proposed rule. Based on comments received on the proposed rule and on the IRFA (see Comments and Responses section), NMFS has amended the final actions and has revised the regulatory flexibility analysis accordingly. The final regulatory flexibility analysis FRFA assumes that fishermen, during the time they would otherwise be pelagic longline fishing in the designated areas would instead (1) make longline sets in other areas, (2) participate in other commercial fisheries, or (3) exit commercial fishing. As of March 23, 2000, 450 vessel owners had been issued for limited access permits for swordfish, sharks, and the Atlantic tunas Longline category. With these three permits, these 450 fishermen may use a pelagic longline to target Atlantic swordfish (if they have a directed swordfish permit), Atlantic tunas, or Atlantic sharks (if they have a directed shark permit). If they have an incidental swordfish or incidental shark permit, these fishermen could still target Atlantic tunas. Thus, the number of small entities directly affected by this regulation consists of at least these 450 fishermen. In addition, other sectors of the commercial fishery might be affected by this regulation, including dealers, processors, bait houses, and hook manufacturers. Using the weighout slips submitted by fishermen reporting in the pelagic longline logbook, NMFS estimates that 125 dealers received fish in 1998 from the 450 fishermen who qualified under the limited access program. NMFS also received comments that the businesses associated with the recreational and charter/headboat sectors of the HMS fisheries may also experience economic impacts as a result of the commercial fishing effort displacement which would result from the time/area closures. On balance, though, these impacts are likely to be positive as gear conflicts will be reduced in some areas and the availability of target species will increase for the recreational sector.

Under this final action, a decrease in gross revenues will result for some proportion of the affected small entities in the commercial fishing sector. Under the final time/area closure actions, NMFS estimates that, assuming the worst case scenario, the average annual gross revenues per permit holder could decrease by nearly 5 percent to about \$130,000. Additionally, NMFS estimates that under the final closure actions approximately 43 percent of the vessels that reported landings in 1998 will experience at least a 5-percent decrease in gross revenues and approximately 14 percent of the vessels will experience at least a 50-percent decrease in gross revenues (i.e., be forced out of business). The final rule closures will also have an economic impact on dealers. About 15 percent of the permitted dealers could experience at least a 5-percent reduction in the amount of fish handled due to the DeSoto Canyon area closure, while 28 percent could experience at least five percent reduction in the amount of fish handled due to the Charleston Bump and East Florida Coast closures. However, to the extent that landings of HMS are likely to increase in other areas, gains will accrue to certain other vessel operators and dealers.

Based on comments received on the proposed rule and the IRFA, NMFS has adopted a ban on live bait sets in lieu of the western Gulf of Mexico closed area. While a prohibition on live bait may reduce the landings of some pelagic longline fishermen, particularly yellowfin tuna landings, it is not likely that this final action will have a large impact on the gross revenues of any permit holder. More likely, this final action may have an impact on the net revenues of some permit holders since it will change the method of fishing. Requiring the use of frozen bait might increase costs by up to 22 percent for fishermen who currently use live bait. However, the use of dead bait might decrease the time at sea (since a number of days are used up fishing for live bait) and a decrease in the time spent at sea might decrease the cost of fuel, groceries, or the costs associated with catching the bait and keeping it alive. Thus, even though fishermen might need to spend additional money up front in order to leave for a fishing trip, this alternative might be beneficial if more sea time is available to fish for target species. In any event, the economic impacts of a live bait prohibition are expected to be less significant than under the proposed closure.

The alternatives considered include the status quo, gear modifications, and a ban on pelagic longline fishing by U.S.

vessels in the Atlantic Ocean. Although the status quo and gear modification alternatives might have lesser economic impacts on participants in the pelagic longline fishery, those alternatives either do not reduce bycatch to the extent that NMFS expects to be achieved by the time-area closures or present enforcement difficulties. While a complete ban on longline fishing would reduce bycatch to a greater extent than the time-area closures, the lost value of commercial seafood products and the adverse impacts on fishery participants and fishing communities would impose greater costs than the final action.

In addition to changes from the proposed rule, NMFS has decided to delay implementation of some of the final regulations to help mitigate some of the economic impacts fishermen may experience as a result of the time/area closures and to give fishermen and related industries a chance to relocate both business interests and families. The RIR/FRFA provides further discussion of the economic effects of the final actions and all the alternatives considered.

This final action will not impose any additional reporting or recordkeeping requirements on vessel operators or dealers. Vessel logbooks, dealer reports, observer notification, and VMS requirements applicable to the HMS fisheries are all currently approved by the Office of Management and Budget under existing regulations.

In preparing the draft HMS FMP and Billfish Amendment, NMFS reinitiated formal consultation for all Highly Migratory Species commercial fisheries on May 12, 1998, under section 7 of the ESA. In a BO issued on April 23, 1999, NMFS concluded that operation of the Atlantic pelagic longline fishery may adversely affect, but is not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS' jurisdiction. Certain provisions of the BO were incorporated into the final rule that implemented the FMPs and consolidated the HMS regulations (e.g., moving after encounters and limiting the mainline length). Other provisions of the BO required non-regulatory programmatic actions (e.g., research and monitoring).

The Incidental Take Statement (ITS) of the April 23, 1999, BO authorized the following levels of incidental take in the pelagic longline fisheries: 690 leatherback sea turtles (*Dermochelys coriacea*), entangled or hooked (annual estimated number) of which no more than 11 are observed hooked by ingestion or moribund when released; 1541 loggerhead sea turtles (*Caretta*

caretta) entangled or hooked (annual estimated number) of which no more than 23 may be hooked by ingestion or observed moribund when released.

Observed take levels documented in 1999 indicate that, of all the turtles taken, up to 50 loggerheads and 19 leatherbacks were observed "hooked by ingestion" or moribund upon release. However, only about 3 percent observer coverage was obtained and the anticipated take levels were based on 5 percent observer coverage. Thus, the observed levels of take would likely have been considerably higher had the required 5 percent coverage level been achieved. If the target observer coverage level had been achieved, NMFS preliminarily projects that up to 83 loggerheads and 32 leatherbacks would have been observed "hooked by ingestion" or moribund in 1999.

On November 19, 1999, NMFS reinitiated consultation under Section 7 of the ESA because observed take of loggerhead sea turtles by the Atlantic pelagic longline fishery had exceeded levels anticipated in the ITS. The consultation included this pelagic longline management rulemaking because the time/area closures, if implemented, could affect the overall interaction rates with sea turtles depending on fishermen's responses in terms of shifting pelagic longline effort or fishing for other species with other gear. The consultation also addressed the shark drift gillnet fishery and the Atlantic tunas purse seine fisheries; however, the following discussion addresses only issues in the BO that apply specifically to the pelagic longline fishery which is the subject of this final rule.

After reviewing the current status of the northern right whale, the humpback, fin and sperm whales, and leatherback, loggerhead, green, hawksbill, and Kemp's ridley sea turtles, the environmental baseline for the action area, the effects of implementation of the proposed Amendment to the Atlantic HMS FMP, the record of compliance with requirements of previous BOs on HMS fisheries, and probable cumulative effects, it is NMFS' BO that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of loggerhead and leatherback sea turtles.

According to the BO, to avoid the likelihood of jeopardizing the continued existence of loggerhead and leatherback sea turtles, NMFS must implement fishery management measures to reduce the number of these turtles that are incidentally captured, injured, killed by gear associated with federally-managed

fisheries by at least 75 percent from current levels; that is, a reduction in the number of loggerhead and leatherback sea turtles captured, injured, or killed compared with a running average of the number captured, injured, or killed during the period 1993 to 1999. The reduction can be accomplished directly by gear modifications or it can be accomplished indirectly by changing the method by which gear is deployed.

Indirect modifications could include managing fisheries that use harmful gear over time and space to eliminate the likelihood of interactions between loggerhead sea turtles and gear (proportional to the threat posed by specific gear); managing fisheries to eliminate the likelihood that loggerhead sea turtles captured by gear would drown before they can be released (such as keeping soak times to less than 30 to 45 minutes); excluding gear from areas that, based on available data, appear to be important for loggerhead sea turtles; or, any combination of these changes that reduce the number of loggerhead sea turtles that are incidentally captured, injured, and killed by gear associated with federally-managed fisheries by at least 75 percent from current levels.

The BO identified the Reasonable and Prudent Alternatives (RPAs) necessary to avoid jeopardy, and listed the Reasonable and Prudent Measures (RPMs) and Terms and Conditions (TCs) necessary to authorized continued takes. According to the BO, if NMFS cannot develop and implement direct or indirect management measures that reduce the number of loggerhead sea turtles that are incidentally captured, injured, and killed by gear associated with federally managed fisheries by at least 75 percent from current levels, the following RPAs must be implemented: modifications in fishing gear or method (e.g., requirement for corrodible hooks or limiting fishing activity to certain temperature and time of day regimes); or exclusion zones (e.g., temporally and spatially restricting pelagic longline effort in the Grand Banks area); and enhanced monitoring.

Section 9 of ESA and Federal regulations issued pursuant to section 4(d) of ESA prohibit the take of endangered and threatened species, respectively, without special exemption. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under sections 7(b)(4) and 7(o)(2) of the ESA, taking that is incidental to and not intended as part of the Agency action is not a prohibited taking, provided that such taking is in compliance with the RPMs and TCs of

the ITS. Section 7(b)(4)(c) of the ESA specifies that in order to provide an ITS for an endangered or threatened species of marine mammal, the taking must be authorized under section 101(a)(5) of the Marine Mammal Protection Act of 1972 (MMPA). Since no incidental take has been authorized under section 101(a)(5) of the MMPA, no statement on incidental take of endangered whales is provided and no take is authorized.

Regarding anticipated incidental take of sea turtles in the pelagic longline fishery for swordfish, tunas, and sharks, it is hoped that this final rule to reduce bycatch in the pelagic longline fishery, which may slightly increase take levels of sea turtles, will be more than offset by the additional requirements to implement the RPMs according to the terms and conditions of the ITS. The BO states that the RPMs that are necessary and appropriate to minimize take of listed species include an effective monitoring and reporting system to document take, educating fishermen to reduce the potential for serious injury or mortality of hooked turtles, and assessments of current data to look for trends that may indicate management measures to reduce the number of protected species interactions.

In order to be exempt from the take prohibitions of section 9 of ESA, the June 30, 2000, BO requires NMFS to comply with certain terms and conditions which would implement the RPMs described earlier and outline required reporting/monitoring requirements. The terms and conditions are non-discretionary and require: at-sea observer coverage; information collection on the condition of sea turtles and marine mammals when released; the presence and use of dipnets and cutting devices on all longline vessels; review of turtle bycatch and release mortality studies; financial support for genetic research to identify sea turtle subpopulations; examination of the influence of gear and fishing technique modifications such as light sticks and length of mainline on protected species interaction rates.

NMFS will address the requirements of the BO in a subsequent rulemaking and by certain non-regulatory actions. In the interim, this final rule will not result in any irreversible and irretrievable commitment of resources that will have the effect of foreclosing the formulation or implementation of any RPAs necessary to reduce impacts on protected species.

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: July 26, 2000.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635, is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.2, the definition of "High-flyer" is revised and new definitions for "Charleston Bump closed area," "DeSoto Canyon closed area," "East Florida Coast closed area," "Handline," "Longline," and "Pelagic longline" are added in alphabetical order to read as follows:

§ 635.2 Definitions.

* * * * *

Charleston Bump closed area means the Atlantic Ocean area seaward of the baseline from which the territorial sea is measured from a point intersecting the U.S. coast at 34°00' N. lat. near Wilmington Beach, North Carolina, and proceeding due east to connect by straight lines the following coordinates in the order stated: 34°00' N. lat., 76°00' W. long.; 31°00' N. lat., 76°00' W. long.; then proceeding due west to intersect the coast at 31°00' N. lat. near Jekyll Island, Georgia.

* * * * *

DeSoto Canyon closed area means the area within the Gulf of Mexico bounded by straight lines connecting the following coordinates in the order stated: 30°00' N. lat., 88°00' W. long.; 30°00' N. lat., 86°00' W. long.; 28°00' N. lat., 86°00' W. long.; 28°00' N. lat., 84°00' W. long.; 26°00' N. lat., 86°00' W. long.; 28°00' N. lat., 86°00' W. long.; 28°00' N. lat., 88°00' W. long.; 30°00' N. lat., 88°00' W. long.

* * * * *

East Florida Coast closed area means the Atlantic Ocean area seaward of the baseline from which the territorial sea is measured from a point intersecting the U.S. coast at 31°00' N. lat. near Jekyll Island, Georgia, and proceeding due east to connect by straight lines the following coordinates in the order

stated: 31°00' N. lat., 78°00' W. long.; 28°17' N. lat., 79°00' W. long.; then proceeding along the boundary of the EEZ to 24°00' N. lat., 79°30' W. long.; then connecting by straight lines the following coordinates in the order stated: 24°00' N. lat., 79°30' W. long.; 24°00' N. lat., 81°00' W. long.; 24°00' N. lat., 81°47' W. long.; then proceeding due north to intersect the coast at 81°47' W. long. near Key West, Florida.

Handline means fishing gear that consists of a mainline to which no more than two leaders (gangions) with hooks are attached, and that is released and retrieved by hand, rather than by mechanical means.

High-flyer means a flag, radar reflector or radio beacon transmitter, suitable for attachment to a longline to facilitate its location and retrieval.

Longline means fishing gear that is set horizontally, either anchored, floating, or attached to a vessel, and that consists of a mainline or groundline with three or more leaders (gangions) and hooks, whether retrieved by hand or mechanical means.

Pelagic longline means a longline that is suspended by floats in the water column and that is not fixed to or in contact with the ocean bottom.

3. In § 635.4, paragraph (a)(10) is added, and paragraph (e)(4) is removed, to read as follows:

§ 635.4 Permits and fees.

(a) * * * (10) *Permit condition.* An owner issued a swordfish or shark permit pursuant to this part must agree, as a condition of such permit, that the vessel's swordfish or shark fishing, catch and gear are subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the EEZ, or outside the EEZ, and

without regard to where such swordfish or shark, or gear are possessed, taken or landed. However, when a vessel fishes within the waters of a state that has more restrictive regulations on swordfish or shark fishing, persons aboard the vessel must abide by the state's more restrictive regulations.

4. In § 635.21, paragraph (c) introductory paragraph and paragraph (c)(2) are revised, and paragraph (c)(4) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

(c) *Pelagic longlines.* For purposes of this part, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, high-flyers, floats capable of supporting the mainline, and leaders (gangions) with hooks are on board. Removal of any one of these elements constitutes removal of pelagic longline gear. If a vessel issued a permit under this part is in a closed area designated under paragraph (c)(2) of this section with pelagic longline gear on board, it is a rebuttable presumption that fish on board such vessel were taken with pelagic longline gear in the closed area.

(2) If pelagic longline gear is on board a vessel issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in:

- (i) The Northeastern United States closed area from June 1 through June 30 each calendar year;
- (ii) In the Charleston Bump closed area from February 1 through April 30 each calendar year;
- (iii) In the Florida East Coast closed area at any time beginning at 12:01 a.m. on February 1, 2001; and,
- (iv) In the DeSoto Canyon closed area at any time beginning at 12:01 a.m. on November 1, 2000.

(4) In the Gulf of Mexico: pelagic longline gear may not be fished or

deployed from a vessel issued a permit under this part with live bait affixed to the hooks; and, a person aboard a vessel issued a permit under this part that has pelagic longline gear on board shall not maintain live baitfish in any tank or well on board the vessel and shall not possess live baitfish, and shall not set up or attach an aeration or water circulation device in or to any such tank or well. For the purposes of this section, the Gulf of Mexico includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

5. In § 635.69, paragraph (a) is revised by adding a second sentence to read as follows:

§ 635.69 Vessel monitoring systems.

(a) *Applicability.* * * * A vessel is considered to have pelagic longline gear on board for the purposes of this section, when gear as specified at § 635.21(c) is on board.

6. In § 635.71, paragraphs (a)(30), (31), and (32) are added to read as follows:

§ 635.71 Prohibitions.

(a) * * * (30) Deploy or fish with a pelagic longline greater than the maximum length authorized for any area specified at § 635.21(c)(1).

(31) Deploy or fish with any fishing gear from a vessel with a pelagic longline on board in any closed area during the time periods specified at § 635.21(c)(2).

(32) In the Gulf of Mexico, deploy or fish a pelagic longline with live bait affixed to the hooks or to possess live bait, or set up a well or tank to maintain live bait, aboard a vessel with pelagic longline gear on board as specified at § 635.21(c)(4).



Federal Register

**Tuesday,
August 1, 2000**

Part IV

The President

**Notice of July 28, 2000—Continuation of
Iraqi Emergency**

Title 3—

Notice of July 28, 2000

The President

Continuation of Iraqi Emergency

On August 2, 1990, by Executive Order 12722, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Iraq. By Executive Orders 12722 of August 2, 1990, and 12724 of August 9, 1990, the President imposed trade sanctions on Iraq and blocked Iraqi government assets. Because the Government of Iraq has continued its activities hostile to United States interests in the Middle East, the national emergency declared on August 2, 1990, and the measures adopted on August 2 and August 9, 1990, to deal with that emergency must continue in effect beyond August 2, 2000. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iraq.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
July 28, 2000.

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Tuesday, August 1, 2000

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CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402

(phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/index.html>. Some laws may not yet be available.

H.R. 3544/P.L. 106-250

Pope John Paul II Congressional Gold Medal Congressional Gold Medal Act (July 27, 2000; 114 Stat. 622)

H.R. 3591/P.L. 106-251

To provide for the award of a gold medal on behalf of the Congress to former President Ronald Reagan and his wife Nancy Reagan in recognition of their service to the Nation. (July 27, 2000; 114 Stat. 624)

H.R. 4391/P.L. 106-252

Mobile Telecommunications Sourcing Act (July 28, 2000; 114 Stat. 626)

H.R. 4437/P.L. 106-253

Semipostal Authorization Act (July 28, 2000; 114 Stat. 634)

Last List July 28, 2000

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 2000

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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August 3	August 18	Sept 5	Sept 18	Oct 2	Nov 1
August 4	August 21	Sept 5	Sept 18	Oct 3	Nov 2
August 7	August 22	Sept 6	Sept 21	Oct 6	Nov 6
August 8	August 23	Sept 7	Sept 22	Oct 10	Nov 6
August 9	August 24	Sept 8	Sept 25	Oct 10	Nov 7
August 10	August 25	Sept 11	Sept 25	Oct 10	Nov 8
August 11	August 28	Sept 11	Sept 25	Oct 10	Nov 9
August 14	August 29	Sept 13	Sept 28	Oct 13	Nov 13
August 15	August 30	Sept 14	Sept 29	Oct 16	Nov 13
August 16	August 31	Sept 15	Oct 2	Oct 16	Nov 14
August 17	Sept 1	Sept 18	Oct 2	Oct 16	Nov 15
August 18	Sept 5	Sept 18	Oct 2	Oct 17	Nov 16
August 21	Sept 5	Sept 20	Oct 5	Oct 20	Nov 20
August 22	Sept 6	Sept 21	Oct 6	Oct 23	Nov 20
August 23	Sept 7	Sept 22	Oct 10	Oct 23	Nov 21
August 24	Sept 8	Sept 25	Oct 10	Oct 23	Nov 22
August 25	Sept 11	Sept 25	Oct 10	Oct 24	Nov 24
August 28	Sept 12	Sept 27	Oct 12	Oct 27	Nov 27
August 29	Sept 13	Sept 28	Oct 13	Oct 30	Nov 27
August 30	Sept 14	Sept 29	Oct 16	Oct 30	Nov 28
August 31	Sept 15	Oct 2	Oct 16	Oct 30	Nov 29
