New York State regulation	State effective date	Latest EPA approval date	Comments
Part 216, Iron and/or Steel Processes (with provisions as noted).	8/23/79		Sections 216.1(a), 216.1(b), 216.1(c) and 216.2(c) are only incorporated provisionally pending additional RACT evaluations (40 CFR 52.1678 (b)(3) and (c)).
Part 217, Emissions from Motor Vehicles Propelled by Gasoline Engines.	8/12/72	9/22/72, 37 FR 19814	
Part 218, Emissions from Vehicles Propelled by Diesel Engines.	5/1/72	9/22/72, 37 FR 19814	
Part 219, Incinerators	5/1/82	9/22/72, 37 FR 19814	
Part 220, Portland Cement Plants	3/14/73	11/12/81, 46 FR 55690	
Part 222, Incinerators—New York City, Nassau and Westchester Counties.	7/17/72	9/22/72, 37 FR 19814	
Part 223, Petroleum Refineries	8/23/79	11/10/80, 45 FR 74472	
Part 224, Sulfuric and Nitric Acid Plants	3/15/73	11/12/81, 46 FR 55690	
Part 225, Fuel Composition and Use (except as noted).	3/24/79	11/12/81, 46 FR 55690	Section 225.3(e) is disapproved (40 CFR 52.1675(d). Variances adopted by the State pursuant to Sections 225.2 (b) and (c), 225.3, and 225.5(c) become applicable only if approved by EPA as SIP revisions (40 CFR 52.1675(e)).
Part 226, Solvent Metal Cleaning	8/23/79	11/10/80, 45 FR 74472	
Part 227, Stationary Combustion Installations (except as noted).	3/24/79	11/12/81, 46 FR 55690	Sections 227.3(a)(2), 227.5(b), 227.6(a) and 227.6(f) are disapproved (40 CFR 52.1676(b), 52.1678(d), and 52.1680(a)).
Part 227, Stationary Combustion Installations/Section 227.2(b)(1).	5/1/72	9/22/72, 37 FR 19814	
Part 228, Surface Coating Processes	8/23/79	11/10/80, 45 FR 74472	
Part 229, Petroleum Liquids Storage and Transfer.	6/21/80	7/1/80, 45 FR 44273	
Part 231, Major Facilities	6/21/80	7/1/80, 45 FR 44273	

3. A new paragraph (d) is added to § 52.1678 to read as follows:

§ 52.1678 Control strategy and regulations: Particulate Matter.

* * * * *

(d) Section 227.3(a)(2) of 6 NYCRR, as submitted on August 10, 1979, is disapproved because it is inconsistent with 40 CFR 51.13, Control strategy: Sulfur oxides and particulate matter.

4. A new paragraph (b) is added to § 52.1676 to read as follows:

§ 52.1676 Control strategy: Nitrogen dioxide.

* * * * *

(b) Section 227.5(b) of 6 NYCRR, as submitted on August 10, 1979, is disapproved because it is inconsistent with 40 CFR 51.14, Control strategy: Carbon monoxide, hydrocarbons, ozone, and nitrogen dioxide.

5. Section 52.1680 is added to read as follows:

§ 52.1680 Control strategy: Monitoring and Reporting.

(a) Sections 227.6 (a) and (f) are disapproved because they are not consistent with the continuous monitoring and reporting requirements of 40 CFR 51.19(e).

[FR Doc. 81-32512 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PP 6E1760/6E1874/7E1929/9E2136/OE2309/OE2361/R364; PH-FRL—1983-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Benomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl). This regulation was requested by the Interregional Research Project No. 4 (IR-4) and by the California Department of Food and Agriculture. This regulation will establish a maximum permissible level for the combined residues of benomyl and its metabolites at 0.2 part per million (ppm) in or on certain raw agricultural commodities.

EFFECTIVE DATE: November 12, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of October 2, 1981 (46 FR 48720) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions numbers 6E1760; 6E1874; 9E2136; OE2309; and OE2361 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Florida (6E1760); Florida, Louisiana, Wisconsin, Michigan, New York, and Washington (6E1874); California, Maryland, New Jersey, and Virginia (9E2136); Arkansas, California, Oregon, Texas, and Washington (OE2309); and New Jersey (OE2361). These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the fungicide benomyl [methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate] and its metabolites containing the benzimidazole moiety (calculated as benomyl) at 0.2 ppm in or on the following raw agricultural commodities resulting from seed treatments: corn, fresh (including sweet, K+CWHR) and sweet corn, fodder and forage ((6E1760); broccoli, brussels sprouts, cabbage, cauliflower, Chinese cabbage, collards, kale, kohlrabi, mustard greens, rutabagas, and turnips (tops and roots) (6E1874); and spinach (OE2309); 0.2 ppm in or on sweet potatoes resulting from transplant root dip treatment (9E2136); and 0.2 ppm in or on eggplants and peppers resulting from greenhouse application to bedding plants prior to transplant but not later than the 8-leaf stage (OE2361).

The California Department of Food and Agriculture, 1220 N St., Sacramento, CA 95814, has submitted pesticide petition 7E1929 requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the

establishment of a tolerance for the combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity garlic at 0.2 ppm from treatment of garlic seed (cloves).

A comprehensive review of the data available for the chemical was conducted in connection with the Rebuttable Presumption Against Registration (RPAR) for benomyl which was published in the **Federal Register** of December 6, 1977 (42 FR 61788).

This presumption was based on information indicating that benomyl posed the risks of mutagenicity (point mutation and non-disjunction), spermatogenic depression and teratogenic effects, acute toxicity to aquatic organisms and significant population reduction in nontarget organisms. In the **Federal Register** of August 30, 1979 (44 FR 51166), the agency issued a Preliminary Notice of Determination, which concluded that benomyl continued to pose the risks noted above with the exception of point mutations and significant population reductions in nontarget organisms. In this Notice and the accompanying Position Document 2/3, the agency weighed the risks and benefits of use together, and determined that certain modifications to the terms and conditions of use were necessary to reduce the risks of use to applicators.

Subsequent to these findings, data have been made available indicating that benomyl is oncogenic and additional teratogenic tests have been submitted. A reexamination of the presently registered uses of benomyl in light of the oncogenic and teratogenic adverse effects is currently being performed.

Food residue studies on the crops for which tolerances are being proposed were submitted and evaluated for the petitions. These studies demonstrated that residues of benomyl in the crops will be less than the limits of sensitivity of analytical methodology, or less than 0.2 ppm. Thus, there will be minimal potential health risk to the general public. These and all currently existing tolerances and registered uses will be reevaluated in a future RPAR position document.

The nature of the residues is adequately understood and adequate analytical methods (fluorometric or colorimetric) are available for enforcement purposes. Since no detectable residues have been found in treated crops, there will be no problem of secondary residues in meat, milk, poultry, and eggs. Even if small quantities of residues were to be found in feed items, the established meat, milk, poultry, and egg tolerances would be adequate to cover residues from these uses.

No comments or requests for referral to an advisory committee were received in response to the notice of proposed rulemaking.

Based on the above information considered by the agency, it is concluded that the amount of benomyl added to the diet from the seed uses is too small to substantially increase the risk to humans. Thus, the tolerances are considered to pose a negligible increment in risk and it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this rule from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: November 12, 1981.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: November 3, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.294 is revised to read as follows:

§ 180.294 Benomyl; tolerances for residues.

Tolerances are established for the combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the following raw agricultural commodities:

Commodities	Parts per million
Almond hulls	1
Apples (pre- and post-H)	7
Apricots (pre- and post-H)	15
Avocados	1
Bananas (pre- and post-H) (NMT 0.2 ppm (N) shall be present in the pulp after peel is removed and discarded)	1
Beans	2
Bean vine forage	50
Beets, sugar, roots	0.2
Beets, sugar, tops	15
Blackberries	7
Blueberries	7
Boysenberries	7
Broccoli	0.2
Brussels sprouts	0.2
Cabbage	0.2
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Cauliflower	0.2
Celery	3
Cherries (pre- and post-H)	15
Chinese cabbage	0.2
Citrus fruit (pre- and post-H)	10
Collards	0.2
Corn, fresh (inc. sweet K + CWHR)	0.2
Corn, sweet, fodder and forage	0.2
Cucumbers	1
Dewberries	7
Eggplants	0.2
Eggs	0.1
Garlic	0.2
Goats, fat	0.1
Goats, meat	0.1
Goats, mbyp	0.1
Grapes	10
Hogs, fat	0.1
Hogs, meat	0.1
Hogs, mbyp	0.1
Horses, fat	0.1
Horses, meat	0.1
Horses, mbyp	0.1
Kale	0.2
Kohlrabi	0.2
Loganberries	7
Mangoes	3
Melons	1
Milk	0.1
Mushrooms (pre- and post-H)	10
Mustard greens	0.2
Nectarines (pre- and post-H)	15
Nuts	0.2(N)
Peaches (pre- and post-H)	15
Peanuts	0.2
Peanut forage	15
Peanut hay	15
Peanut hulls	2
Pears (pre- and post-H)	7
Peppers	0.2
Pineapples (post-H)	35
Plums (inc. fresh prunes) (pre- and post-H)	15

Commodities	Parts per million
Poultry, fat	0.1
Poultry, liver	0.2
Poultry, meat	0.1
Poultry, mbyp	0.1
Pumpkins	1
Raspberries	7
Rice	5
Rice straw	15
Rutabagas	0.
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1
Soybeans	0.2
Spinach	0.2
Squash, summer	1
Squash, winter	1
Strawberries	5
Sweet potatoes	0.2
Tomatoes	5
Turnips, roots	0.2
Turnips, tops	0.2

[FR Doc. 81-32614 Filed 11-10-81; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Parts 54 and 54a

Changes in Requirements for Programs Replaced by Block Grants; Correction

AGENCY: Department of Health and Human Services.

ACTION: Interim final rule with request for comments; Correction.

SUMMARY: This document corrects an interim final rule with request for comments on changes in requirements for programs replaced by block grants that appeared at page 48593 in the **Federal Register** of Thursday, October 1, 1981, (46 FR 48593). This action is necessary to correct a typographical error in a citation.

DATES: The rule is effective October 1, 1981. Comments must be received on or before November 30, 1981. Any amendments suggested in those comments will be considered and any appropriate revisions will be made promptly.

ADDRESS: Comments on this rule should be submitted to: Executive Secretariat, Attn: Charlotte Lewis, Department of Health and Human Services, Room 632-H, Humphrey Building, 200 Independence Avenue, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Robert L. Spencer, Regulations Officer, Public Health Service, Parklawn Building, Room 17B-08, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6330.

Dated: November 4, 1981.

Approved:

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

Accordingly, the Department of Health and Human Services is correcting FR Doc. 81-28343 appearing on 48593 in the issue of October 1, 1981 as follows:

On page 48596 in the middle of column three, "(§ 54.204 [Removed] 6. Section 54.204 is removed.)" is corrected to read:

§ 54a.204 [Removed]

6. Section 54a.204 is removed.

[FR Doc. 81-32610 Filed 11-10-81; 8:45 am]

BILLING CODE 4110-12-M

Health Care Financing Administration

42 CFR Part 401

Medicare Program; Availability of Information and Records to the Public

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

ACTION: Final rule.

SUMMARY: We are changing the Code of Federal Regulations (CFR) location of certain regulations applicable to the Medicare program that concern the availability of information and records to the public. Currently, HCFA shares regulations on that subject with the Social Security Administration (SSA) in Title 20 of the CFR.

This change in location is one of a series intended to consolidate HCFA regulations in one place, Title 42 of the CFR, for the convenience of providers of services, intermediaries and others who use our regulations. This move will combine these regulations on the general availability of information with others in Title 42 on disclosure of official records and information about individuals.

We do not intend any substantive changes. We have merely inserted updated addresses for requesting records, changed certain references to make them applicable to HCFA rather than SSA, and deleted obsolete items from the list of publications. Substantive changes will be proposed at a later date when we publish regulations on the availability of information and records for both the Medicare and Medicaid programs.

EFFECTIVE DATE: November 12, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley Katz, Health Care Financing Administration, Dogwood West, Second Floor, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207, (301) 594-9595.

SUPPLEMENTARY INFORMATION:

Background

From its inception in 1965 until March 1977, the Medicare program was the responsibility of the Social Security Administration (SSA). Regulations applicable to SSA programs are located in Titles 20 and 45 of the Code of Federal Regulations (20 CFR and 45 CFR).

In 1977, under a Departmental reorganization, responsibility for the Medicare program was transferred to HCFA. Most of the regulations applicable to HCFA programs are located in 42 CFR.

On November 13, 1980, HHS issued final regulations separating SSA rules from HCFA rules on the disclosure of official records and information about individuals to the public (45 FR 74906). These regulations implement the Privacy Act (5 U.S.C. 552b) and section 1106 of the Social Security Act. SSA recodified its portion of the regulations in 20 CFR Part 401, and transferred certain sections applicable to HCFA to a new 42 CFR Part 401, Subpart B, Confidentiality and Disclosure.

SSA's regulations that implement the Freedom of Information Act (FOIA) (5 U.S.C. 552) are located in 20 CFR Part 422, Subpart E, Availability of Information and Records to the Public. The regulations are generally applicable to the various programs administered by SSA (e.g. the Old Age, Survivors and Disability Insurance program) and also to Medicare. SSA's regulations in this area provide the sole source of guidance on HCFA's policies implementing the FOIA.

As the second step in our effort to consolidate HCFA's regulations in the general area of confidentiality and disclosure of information into 42 CFR, we are adopting those provisions of SSA's regulations that apply to Medicare and placing them in 42 CFR Part 401, Subpart B, following the regulations transferred by SSA in the November 13, 1980 **Federal Register**. In doing so, we have updated addresses and references to HCFA offices and personnel, and deleted obsolete items from the list of publications we make available for public inspection. No substantive changes have been made.

Briefly, the regulations contain an explanation of how HCFA implements the requirements of the FOIA. We present in the regulation a description of material that HCFA makes available for public inspection and copying, the addresses where the information may be obtained, and a description of the procedures the public must follow when requesting information.

Reasons for Relocation

This relocation will assist persons needing information about Medicare policies on confidentiality and disclosure by making all information available in one part of the CFR. In addition, it will provide updated points of contact for obtaining information about the Medicare program, thereby helping to avoid delay in HCFA's receipt of and responses to requests by the public for information. Finally, SSA eventually plans to recodify its regulations on this subject and to delete all references to Medicare. Therefore, this relocation will assure, in the long run, easy access to codified Medicare regulations under the FOIA.

We are planning to propose, in a subsequent publication, substantive changes in HCFA policies relating to confidentiality and disclosure. Those changes will be presented in a notice of proposed rulemaking and sufficient time will be allowed for public comment.

Waiver of Proposed Rulemaking and Prospective Effective Date

We are publishing these regulations as final, effective on the date of publication. The regulations essentially restate policies currently applicable to the Medicare program that are located in SSA's chapter of the CFR and differ only in the substitution of references appropriate to HCFA for those specific to SSA.

We have made no substantive changes, and we believe that it is desirable to place all Medicare regulations applicable to confidentiality and disclosure in one title of the CFR. For these reasons, we believe that publication of a notice of proposed rulemaking is unnecessary and that there is good cause to waive proposed rulemaking procedures. For the same reasons, we find good cause to waive the requirement for a prospective effective date of 30 days after the date of publication.

Executive Order 12291

The Secretary has determined that these final regulations do not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291. That is, the proposed regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The HHS regulations that establish the Department's policies under the FOIA, and which are required by the FOIA, state that the agencies within the Department may implement the Department's FOIA policies through separate regulations (45 CFR 5.11). Therefore, in addition to making our regulations easier to use, we intend these final regulations to provide details about the availability of Medicare information that are not contained in the Department's regulations.

Regulatory Flexibility Act

We have also reviewed this regulatory initiative in light of the Regulatory Flexibility Act (Pub. L. 96-354), which requires an analysis of the impact of any regulation that will have a significant economic impact on a substantial number of small businesses, small nonprofit organizations or small governmental, jurisdictions. We have concluded that these regulations will not have such an impact on small entities or governmental jurisdictions because they concern HCFA's policy on availability of information to the public generally and do not impose requirements on any entities. Therefore, we believe a final regulatory analysis under the Regulatory Flexibility Act is not required.

Comparability Chart

To assist the user, we have included a chart that shows the location of comparable sections of 20 CFR Part 422, Subpart E (old sections) and 42 CFR Part 401, Subpart B (new sections).

Old sections	New sections
20 CFR 422.401	42 CFR-401.101(a)(2).
422.402	401.102.
422.406	401.106.
422.408	401.108.
422.410	401.110.
422.412	401.112.
422.416	401.116.
422.418	401.118.
422.420	401.120.
422.426	401.126.
422.428	401.128.
422.430	401.130.
422.432	401.132.
422.433	401.133.
422.434	401.134.
422.435	401.135.
422.436	401.136.
422.440	401.140.
422.444	401.144.
422.448	401.148.
422.452	401.152.

Note.—Recent amendments to SSA regulations established 42 CFR Subpart B by transferring 20 CFR Part 401, Subpart A to 42 CFR as §§ 401.101, 401.102 and 401.105 (45 FR 74906, November 13, 1980).

PART 401—GENERAL ADMINISTRATIVE REQUIREMENTS

42 CFR Part 401, Subpart B is amended as set forth below.

1. The table of contents is amended to add §§ 401.106–401.152, as follows:

Subpart B—Confidentiality and Disclosure

* * * * *

Sec.
401.106 Publication.
401.108 Statements of policy and interpretations not published in the **Federal Register.**
401.110 Publications for sale.
401.112 Availability of administrative staff manuals.
401.116 Availability of records upon request.
401.118 Deletion of identifying details.
401.120 Creation of records.
401.126 Information or records that are not available.
401.128 Where requests for records may be made.
401.130 Materials available at social security district offices and branch offices.
401.132 Materials in field offices of the Office of Hearings and Appeals, SSA.
401.133 Availability of official reports on providers of services, State agencies, intermediaries, and carriers under Medicare.
401.134 Release of Medicare information to State and Federal agencies.
401.135 Release of Medicare information to the public.
401.136 Requests for information or records.
401.140 Fees and charges.
401.144 Denial of requests.
401.148 Administrative review.
401.152 Court review.

* * * * *

Authority: Secs. 1102, 1106 and 1871 of the Social Security Act (42 U.S.C. 1302, 1306 and 1395hh); the Freedom of Information Act (5 U.S.C. 552); and the Privacy Act (5 U.S.C. 552a).

2. Section 401.101 is revised as set forth below.

Subpart B—Confidentiality and Disclosure

§ 401.101 Purpose and scope.

(a) The regulations in this subpart (1) Implement section 1106(a) of the Social Security Act as it applies to the Health Care Financing Administration (HCFA). The rules apply to information obtained by officers or employees of HCFA in the course of administering title XVIII of the Social Security Act (Medicare), information obtained by Medicare intermediaries or carriers in the course of carrying out agreements under sections 1816 and 1842 of the Social Security Act, and any other information subject to section 1106(a) of the Social Security Act;

(2) Relate to the availability to the public, under 5 U.S.C. 552, of records of HCFA and its components. They set out what records are available and how they may be obtained; and (3) Supplement the regulations of the Department of Health and Human Services relating to availability of information under 5 U.S.C. 552, codified in 45 CFR Part 5, and do not replace or restrict them.

(b) Except as authorized by the rules in this subpart, no information described in paragraph (a)(1) of this section shall be disclosed. The procedural rules in this subpart (§§ 401.106 through 401.152) shall be applied to requests for information which is subject to the rules for disclosure in this subpart.

(c) Requests for information which may not be disclosed according to the provisions of this subpart shall be denied under authority of section 1106(a) of the Social Security Act and this subpart, and furthermore, such requests which have been made pursuant to the Freedom of Information Act shall be denied under authority of an appropriate Freedom of Information Act exemption, 5 U.S.C. 552(b).

3. Section 401.102 is revised by removing paragraph designations, rearranging definitions in alphabetical order, and adding the definitions of "Act" and "record" as follows:

§ 401.102 Definitions.

For purposes of this subpart: "Act" means the Social Security Act.

"Freedom of Information Act rules" means the substantive mandatory disclosure provisions of the Freedom of Information Act, 5 U.S.C. 552 (including the exemptions from mandatory disclosure, 5 U.S.C. 552(b), as implemented by the Department's public information regulation, 45 CFR Part 5, Subpart F and by §§ 401.106 to 401.152 of this subpart.

"Person" means a person as defined in the Administrative Procedure Act, 5 U.S.C. 551(2). This includes State or local agencies, but does not include Federal agencies or State or Federal courts.

"Record" has the same meaning as that provided in 45 CFR 5.5.

"Subject individual" means an individual whose record is maintained by the Department in a system of records, as the terms "individual," "record", and "system of records" are defined in the Privacy Act of 1974, 5 U.S.C. 552a(a).

4. Section 401.105 is amended by revising paragraph (b)(2) as set forth below:

§ 401.105 Rules for disclosure.

* * * * *

(b) * * *

(1) * * *

(2) Unless prohibited by any other statute (e.g., the Privacy Act of 1974, 5 U.S.C. 552a(b), the Tax Reform Act of 1976, 26 U.S.C. 6103, or section 1106(d) and (e) of the Social Security Act), information may be disclosed to any requester or recipient of the information, including another Federal agency or a State or Federal court, when the information would not be exempt from mandatory disclosure under Freedom of Information Act rules or when the information nevertheless would be made available under the Department's public information regulation's criteria for disclosures which are in the public interest and consistent with obligations of confidentiality and administrative necessity, 45 CFR Part 5, Subpart F, as supplemented by §§ 401.106 to 401.152 of this subpart.

5. Sections 401.106 through 401.152 are added as set forth below:

§ 401.106 Publication.

(a) *Methods of publication.* Materials required to be published under the provisions of The Freedom of Information Act, 5 U.S.C. 552 (a)(1) and (a)(2) are published in one of the following ways:

(1) By publication in the **Federal Register** of HCFA regulations, and by their subsequent inclusion in the Code of Federal Regulations;

(2) By publication in the **Federal Register** of appropriate general notices;

(3) By other forms of publication, when incorporated by reference in the **Federal Register** with the approval of the Director of the Federal Register; and

(4) By publication in the "Health Care Financing Administration Rulings" (HCFA Rulings) of indexes of precedential orders and opinions issued in the adjudication of claims, statements of policy and interpretations which have been adopted but have not been published in the **Federal Register**, and of administrative staff manuals and instructions to staff that affect a member of the public. The HCFA Rulings may be purchased through the Government Printing Office.

(b) *Availability for inspection.* Those materials which are published in the **Federal Register** pursuant to 5 U.S.C. 552(a)(1) shall, to the extent practicable and to further assist the public, be made available for inspection at the places specified in § 401.128.

§ 401.108 Statements of policy and interpretations not published in the Federal Register.

Precedent final opinions and orders and statements of policy and interpretations that have been adopted by HCFA and that are not published in the **Federal Register** will be made available by publication in HCFA Rulings (see § 401.110(d)). HCFA Rulings are published under the authority of the Administrator, HCFA, and are binding on all components of HCFA.

§ 401.110 Publications for sale.

The following publications containing information pertaining to the program, organization, functions, and procedures of HCFA may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(a) Titles 20, 42, and 45 of the Code of Federal Regulations.

(b) **Federal Register** issues.

(c) Compilation of the Social Security Laws.

(d) HCFA Rulings.

(e) Social Security Handbook. The information in the Handbook is not of precedent or interpretative force.

(f) Medicare/Medicaid Directory of Medical Facilities.

§ 401.112 Availability of administrative staff manuals.

All HCFA administrative staff manuals and instructions to staff personnel which contain policies, procedures, or interpretations that affect the public are available for inspection and copying. A complete listing of such materials is published in HCFA Rulings. These manuals are generally not printed in a sufficient quantity to permit sale or other general distribution to the public. Selected material is maintained at Social Security Administration district offices and field offices and may be inspected there. See §§ 401.130 and 401.132 for a listing of this material.

§ 401.116 Availability of records upon request.

(a) *General.* In addition to the records made available pursuant to §§ 401.106, 401.108, 401.110 and 401.112, HCFA will, upon request made in accordance with this subpart, make identified records available to any person, unless they are exempt from disclosure under the provisions of section 552(b) of Title 5, United States Code (see § 401.126), or any other provision of law.

(b) *Misappropriation, alteration, or destruction of records.* No person may remove any record made available to him for inspection or copying under this part, from the place where it is made

available. In addition, no person may steal, alter, mutilate, obliterate, or destroy in whole or in part, such a record. See sections 641 and 2071 of title 18 of the United States Code.

§ 401.118 Deletion of identifying details.

When HCFA publishes or otherwise makes available an opinion or order, statement of policy, or other record which relates to a private party or parties, the name or names or other identifying details will be deleted.

§ 401.120 Creation of records.

Records will not be created by compiling selected items from the files, and records will not be created to provide the requester with such data as ratios, proportions, percentages, per capitas, frequency distributions, trends, correlations, and comparisons. If such data have been compiled and are available in the form of a record, the record shall be made available as provided in this subpart.

§ 401.126 Information or records that are not available.

(a) *Specific exemptions from disclosure.* Pursuant to paragraph (b) of 5 U.S.C. 552, certain classes of records are exempt from disclosure. For some examples of the kinds of materials which are exempt, see Subpart F of the public information regulation of the Department of Health and Human Services (45 CFR Part 5) and the appendix to that regulation.

(b) *Materials exempt from disclosure by statute.* Pursuant to paragraph (b)(3) of 5 U.S.C. 552, as amended, which exempts from the requirement for disclosure matters that are exempted from disclosure by statute, provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matter to be withheld:

(1) Reports described in sections 1106 (d) and (e) of the Social Security Act shall not be disclosed, except in accordance with the provisions of sections 1106 (d) and (e). Sections 1106 (d) and (e) provide for public inspection of certain official reports dealing with the operation of the health programs established by titles XVIII and XIX of the Social Security Act (Medicare and Medicaid), but require that program validation survey reports and other formal evaluations of providers of services shall not identify individual patients, individual health care practitioners, or other individuals. Section 1106(e) further requires that none of the reports shall be made public until the contractor or provider whose performance is being evaluated has had a reasonable opportunity to review that report and to offer comments. See § 401.133 (b) and (c);

(2) Disclosure of materials described in section 1865(a)(2) of the Social Security Act as amended, is prohibited. Section 1865(a)(2) provides for release by the Joint Commission on the Accreditation of Hospitals (JCAH) to the Secretary (or a State agency designated by him) on a confidential basis accreditation surveys made by JCAH, if the hospitals authorize such release. Materials which are confidential under this provision include accreditation letters and accompanying Recommendations and Comments prepared by the JCAH concerning hospitals surveyed by it; and

(3) Tax returns and return information defined in section 6103 of the Internal Revenue Code, as amended by the Tax Reform Act of 1976, shall not be disclosed except as authorized by the Internal Revenue Code.

(c) *Effect of exemption.* Neither 5 U.S.C. 552 nor this regulation directs the withholding of any record or information, except to the extent of the prohibitions in paragraph (b) of this section. Except for material required to be withheld under the statutory provisions incorporated in paragraph (b) of this section or under another statute which meets the standards in 5 U.S.C. 552(b)(3), materials exempt from mandatory disclosure will nevertheless be made available when this can be done consistently with obligations of confidentiality and administrative necessity. The disclosure of materials or records under these circumstances in response to a specific request, however, is of no precedent force with respect to any other request.

§ 401.128 Where requests for records may be made.

(a) *General.* Any request for any record may be made to—

(1) Any HCFA component;

(2) Director, Office of Public Affairs, HCFA 313–H, Hubert H. Humphrey Building, 200 Independence Avenue, Washington, D.C. 20201; or

(3) Director of Public Affairs in any Regional Office of the Department of Health and Human Services.

The locations and service areas of these offices are as follows:

Region I—John F. Kennedy Federal Building, Boston, MA 02203. Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region II—26 Federal Plaza, New York, NY 10007. New York, New Jersey, Puerto Rico, Virgin Islands.

Region III—Gateway Building, 3535 Market Street, Philadelphia, PA 19101. Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Region IV—101 Marietta Street, Atlanta, GA 30323. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V—300 South Wacker Drive, Chicago, IL 60606. Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region VI—1200 Main Tower Building, Dallas, TX 75202. Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII—601 East 12th Street, Kansas City, MO 64106. Iowa, Kansas, Missouri, Nebraska.

Region VIII—Federal Office Building, 19th and Stout Streets, Denver, CO 80294. Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX—Federal Office Building, 50 United Nations Plaza, San Francisco, CA 94102. Arizona, California, Hawaii, Nevada, Guam, Trust Territory of Pacific Islands, American Samoa.

Region X—Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101. Alaska, Idaho, Oregon, Washington.

(b) *Records pertaining to individuals.* HCFA maintains some records pertaining to individuals. Disclosure of such records is generally prohibited by section 1106 of the Social Security Act (42 U.S.C. 1306), except as prescribed in § 401.105 (See also § 401.126(b)). Requests for records pertaining to individuals may be addressed to:

Director, Office of Research, Demonstrations and Statistics, HCFA, Baltimore, Maryland 21235, when information is sought from the record of a person who has participated in a research survey conducted by or for HCFA, Office of Research, Demonstrations and Statistics; or whose records have been included by statistical sampling techniques in research and statistical studies authorized by the Social Security Act in the field of health care financing.

(c) *Requests for materials listed in § 401.130 or § 401.132 or indexed in the HCFA Rulings.* A request to inspect and copy materials listed in § 401.130 or § 401.132 or indexed in HCFA Rulings may be made to any district or branch office of the Social Security Administration. If the specific material requested is not available in the office receiving the request, the material will be obtained and made available promptly.

§ 401.130 Materials available at social security district offices and branch offices.

(a) *Materials available for inspection.* The following are available or will be made available for inspection at the social security district offices and branch offices:

(1) Compilation of the Social Security Laws.

(2) The Public Information Regulation of the Department of Health and Human Services (45 CFR Part 5).

(3) Medicare Program regulations issued by the Health Care Financing Administration. 42 CFR Chapter IV.

(4) HCFA Rulings.

(5) Social Security Handbook.

(b) *Materials available for inspection and copying.* The following materials are available or will be made available for inspection and copying at the social security district offices and branch offices:

(1) Claims Manual of the Social Security Administration.

(2) Department Staff Manual on Organization, Department of Health and Human Services, Part F, HCFA.

(3) Parts 2 and 3 of the Part A Intermediary Manual (Provider Services under Medicare HCFA Pub. 13–2 and 13–3).

(4) Parts 2 and 3 of the Part B Intermediary Manual (Physician and Supplier Services).

(5) Intermediary Letters Related to Parts 2 and 3 of the Part A and Part B Intermediary Manuals.

(6) State Buy-In Handbook (State Enrollment of Eligible Individuals under the Supplementary Medical Insurance Program) and Letters.

(7) Group Practice Prepayment Plan Manual (HIM–8) and Letters.

(8) State Operations Manual (HIM–7).

(9) HCFA Letters to State Agencies on Medicare.

(10) Skilled Nursing Facility Manual (HCFA Pub. 12).

(11) Hearing Officers Handbook (Supplementary Medical Insurance Program—HIM–21).

(12) Hospital Manual (HIM–10).

(13) Home Health Agency Manual (HIM–11).

(14) Outpatient Physical Therapy Provider Manual (HIM–9).

(15) Provider Reimbursement Manual (HIM–15).

(16) Audit Program Manuals for Hospital (HIM–16), Home Health Agency (HIM–17), and Extended Care Facilities (HIM–18).

(17) Statements of deficiencies based upon survey reports of health care institutions or facilities prepared after January 31, 1973, by a State agency, and such reports (including pertinent written statements furnished by such institution or facility on such statements of deficiencies), as set forth in § 401.133(a). Such statements of deficiencies, reports, and pertinent written statements shall be available or made available only at the social security district office and regional office servicing the area in which the institution or facility is located, except that such statements of deficiencies and pertinent written statements shall also be available at the local public assistance offices servicing such area.

(18) Indexes to the materials listed in paragraph (a) of this section and in this paragraph (b) and an index to the Bureau of Hearings and Appeals Handbook.

§ 401.132 Materials in field offices of the Office of Hearings and Appeals, SSA.

(a) *Materials available for inspection.* The following materials are available for inspection in the field offices of the Office of Hearings and Appeals, SSA.

(1) Title 45 of the Code of Federal Regulations (including the public information regulation of the Department of Health and Human Services).

(2) Regulations of the Social Security Administration and HCFA.

(3) Title 5, United States Code.

(4) Compilation of the Social Security Laws.

(5) HCFA Rulings.

(6) Social Security Handbook.

(b) *Handbook available for inspection and copying.* The Office of Hearings and Appeals Handbook is available for inspection and copying in the field offices of the Office of Hearings and Appeals.

§ 401.133 Availability of official reports on providers of services, State agencies, intermediaries, and carriers under Medicare.

The following shall be made available to the public under the conditions specified:

(a) *Statements of deficiencies and survey reports on providers of services prepared by State agencies.* (1) Statements of deficiencies based upon official survey reports prepared after January 31, 1973, by a State agency pursuant to its agreement entered into under section 1884 of the Social Security Act and furnished to HCFA, which relate to a State agency's findings on the compliance of a health care institution or facility with the applicable provisions in section 1861 of the Act and with the regulations, promulgated pursuant to those provisions, dealing with health and safety of patients in those institutions and facilities; and (2) State agency survey reports. The statement of deficiencies or report and any pertinent written statements furnished by the institution or facility on the statement of deficiencies shall be disclosed within 90 days following the completion of the survey by the State agency, but not to exceed 30 days following the receipt of the report by HCFA. (See § 401.130(b)(17)) for places where statements of deficiencies, reports, and pertinent written statements will be available.)

(b) *HCFA reports on providers of services.* Upon request in writing, official reports and other formal evaluations (including followup reviews), excluding references to internal tolerance rules and practices contained therein, internal working papers or other informal memoranda, prepared and completed after January 31, 1973, which relate to the performance of providers of services under Medicare: *Provided,* That no information identifying individual patients, physicians, or other practitioners, or other individuals shall be disclosed under this paragraph. Those reports and other evaluations shall be disclosed within 30 days following the final preparation thereof by HCFA during which time the providers of services shall be afforded a reasonable opportunity to offer comments, and there shall be disclosed with those reports and evaluations any pertinent written statements furnished HCFA by those providers on those reports and evaluations.

(c) *Contractor performance review reports.* Upon request in writing, official contractor performance review reports and other formal evaluations (including followup reviews), excluding references to internal tolerance rules and practices contained therein, internal working papers or other informal memoranda, prepared and completed after January 31, 1973, which relate to the evaluation of the performance of (1) intermediaries and carriers under their agreements entered into pursuant to sections 1816 and 1842 of the Social Security Act and (2) State agencies under their agreements entered into pursuant to section 1864 of the Act (including comparative evaluations of the performance of those intermediaries, carriers, and State agencies). The latest Contract Performance Review Report pertaining to a particular intermediary or carrier, prepared prior to February 1, 1973, may also be disclosed to any person upon request in writing. Those reports and evaluations shall be disclosed within 30 days following their final preparation by HCFA (or 30 days following the request therefor, in the case of the contract performance review report prepared prior to February 1, 1973), during which time those intermediaries, carriers, and State agencies, as the case may be, shall be afforded a reasonable opportunity to offer comments, and there shall be

disclosed with those reports and evaluations any pertinent written statements furnished HCFA by those intermediaries, carriers, or State agencies or those reports and evaluations.

§ 401.134 Release of Medicare information to State and Federal agencies.

(a) Except as provided in paragraph (b) of this section, the following information may be released to an officer or employee of an agency of the Federal or a State government lawfully charged with the administration of a program receiving grants-in-aid under title V and XIX of the Social Security Act for the purpose of administration of those titles, or to any officer or employee of the Department of Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS):

(1) Information, including the identification number, concerning charges made by physicians, other practitioners, or suppliers, and amounts paid under Medicare for services furnished to beneficiaries by such physicians, other practioners, or suppliers, to enable the agency to determine the proper amount of benefits payable for medical services performed in accordance with those programs; or

(2) Information as to physicians or other practioners that has been disclosed under § 401.105.

(3) Information relating to the qualifications and certification status of hospitals and other health care facilities obtained in the process of determining whether, and certifying as to whether, institutions or agencies meet or continue to meet the conditions of participation of providers of services or whether other entities meet or continue to meet the conditions for coverage of services they furnish.

(b) The release of such information shall not be authorized by a fiscal intermediary or carrier.

(c) The following information may be released to any officer or employee of an agency of the Federal or a State government lawfully charged with the duty of conducting an investigation or prosecution with respect to possible fraud or abuse against a program receiving grants-in-aid under Medicaid, but only for the purpose of conducting such an investigation or prosecution, or to any officer or employee of the Department of the Army, Department of Defense, solely for the administration of its Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), provided that the agency has filed an agreement with HCFA that the information will be released only to the agency's enforcement branch and that the agency will preserve the confidentiality of the information received and will not disclose that information for other than program purposes:

(1) The name and address of any provider of medical services, organization, or other person being actively investigated for possible fraud in connection with Medicare, and the nature of such suspected fraud. An active investigation exists when there is significant evidence supporting an initial complaint but there is need for further investigation.

(2) The name and address of any provider of medical services, organization, or other person found, after consultation with an appropriate professional association or a program review team, to have provided unnecessary services, or of any physician or other individual found to have violated the assignment agreement on at least three occasions.

(3) The name and address of any provider of medical services, organization or other person released under paragraph (c)(1) or (2) of this section concerning which an active investigation is concluded with a finding that there is no fraud or other prosecutable offense.

§ 401.135 Release of Medicare information to the public.

The following shall be made available to the public under the conditions specified:

(a) Information as to amounts paid to providers and other organizations and facilities for services to beneficiaries under title XVIII of the Act: *Provided,* That no information identifying any particular beneficiaries shall be disclosed under this paragraph.

(b) The name of any provider of services or other person furnishing services to Medicare beneficiaries who—

(1) Has been found by a Federal court to have been guilty of submitting false claims in connection with Medicare; or

(2) Has been found by a carrier or intermediary, after consultation with a professional medical association functioning external to program administration or, if appropriate, the State medical authority, to have been engaged in a pattern of furnishing services to beneficiaries which are substantially in excess of their medical needs; except that the name of any provider or other person shall not be disclosed pursuant to a finding under this paragraph (b)(2) of this section, unless that provider or other person has first been afforded a reasonable opportunity to offer evidence on his behalf.

(c) Upon request in writing, cost reports submitted by providers of services pursuant to section 1815 of the Act to enable the Secretary to determine amounts due the providers.

§ 401.136 Requests for information or records.

(a) A request should reasonably identify the requested record by brief description. Requesters who have detailed information which would assist in identifying the records requested are urged to provide such information in order to expedite the handling of the request. Envelopes in which written requests are submitted should be clearly identified as Freedom of Information requests. The request should include the fee or request determination of the fee. When necessary, a written request will be promptly forwarded to the proper office, and the requester will be advised of the date of the receipt and identification and address of the proper office.

(b) Determinations of whether records will be released or withheld will be made within 10 working days from date of receipt of the request in the office listed in § 401.128 except where HCFA extends this time and sends notice of such extension to the requester. Such extension may not exceed 10 additional working days and shall apply only where the following unusual circumstances exist:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the requests;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are requested in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the request or among two or more components of HCFA having a substantial interest in the subject matter of the request.

(c) If an extension is made, the requester will be notified in writing before the expiration of 10 working days from receipt of the request and will be given an explanation of why the extension was necessary and the date on which a determination will be made.

(d) Authority to extend the time limit with respect to any request for information or records is granted to the Director, Office of Public Affairs, HCFA

and to the Director of Public Affairs in any HHS Regional Office. Those officers and employees of HCFA who are listed in § 401.144(a) as having authority to deny requests for information from records maintained on individuals are granted authority to extend the time limit for responding to requests for information from such records.

§ 401.140 Fees and charges.

(a) *Statement of policy.* It is HCFA's policy to comply with certain requests for information services without charge. Except as otherwise determined pursuant to paragraph (c) of this section, fees will be charged for the following services with respect to all other requests for information from records which are reasonably identified by the requesters:

(1) Reproduction, duplication, or copying of records;

(2) Searches for records; and

(3) Certification or authentication of records.

(b) *Fee schedules.* The fee schedule is as follows:

(1) *Search for records.* Three dollars per hour: *Provided, however,* That no charge will be made for the first half hour.

(2) *Reproduction, duplication, or copying of records.* Ten cents per page where such reproduction can be made by commonly available photocopying machines. The cost of reproducing records which cannot be so photocopied will be determined on an individual basis at actual cost.

(3) *Certification or authentication of records.* Three dollars per certification or authentication.

(4) *Forwarding materials to destination.* Any special arrangements for forwarding which are requested shall be charged at actual cost; however, no charge will be made for postage.

(5) No charge will be made when the total amount does not exceed five dollars.

(c) *Waiver or reduction of fees.* Waiver or reduction of the fees in paragraph (b) of this section may be made upon a determination that such waiver or reduction is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Such determination may be made by the appropriate officer or employee identified in § 401.144.

(d) *Sale of documents.* On occasion, a previously printed document may be available for sale to the public; the cost of supplying the document is one cent per page unless the document is available for sale from the Superintendent of Documents, in which case the price shall be that determined by the Superintendent.

§ 401.144 Denial of requests.

(a) *General authority.* Only the Director, Office of Public Affairs, HCFA, and the Regional Directors of Public Affairs, HHS, are authorized to deny written requests to obtain, inspect or copy any HCFA information or record.

(b) *Forms of denials.* (1) Oral requests may be dealt with orally, but the requester should be advised that the oral response is not an official determination and that an official determination may be obtained only by submitting the request in writing. Appropriate available assistance will be offered.

(2) Written Requests—Denials of written requests will be in writing and will contain the reasons for the denial including, as appropriate, a statement that a document requested is nonexistent or not reasonably described or is subject to one or more clearly described exemption(s). Denials will also provide the requester with appropriate information on how to exercise the right of appeal.

§ 401.148 Administrative review.

(a) *Review by the Administrator.* A person whose request has been denied may initiate a review by filing a request for review with the Administrator of HCFA, 700 East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, within 30 days of receipt of the determination to deny or within 30 days of receipt of records which are in partial response to his request if a portion of a request is granted and a portion denied, whichever is later. Upon receipt of a timely request for review, the Administrator will review the decision in question and the findings upon which it was based. Upon the basis of the data considered in connection with the decision and whatever other evidence and written argument is submitted by the person requesting the review or which is otherwise obtained, the Administrator or his designee will affirm or revise in whole or in part the findings and decision in question. A decision to affirm the denial will be made only upon concurrence of the Assistant Secretary for Public Affairs, or his designee, after consultation with the General Counsel or his or her designee, and the appropriate program policy official. Written notice of the decision of the Administrator will be mailed to the person who requested the review. A written decision will be made within 20 working days from receipt of the request for review. Extension of the time limit may be granted under the circumstances listed in § 401.136(b) to the extent that the maximum 10 days limit on extensions has not been exhausted on the initial determination. The decision will include the basis for it and will advise the requester of his right to judicial review.

(b) *Failure of the Administrator to comply with the time limits.* Failure of the Administrator to comply with the time limits set forth in § 401.136 and this section constitutes an exhaustion of the requester's administrative remedies.

§ 401.152 Court review.

Where the Administrator upon review affirms the denial of a request for records, in whole or in part, the requester may seek court review in the district court of the United States pursuant to 5 U.S.C. 552(a)(4)(B).

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: August 26, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: October 20, 1981.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-32491 Filed 11-10-81; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 81-110; RM-3389; FCC 81-511]

Amendment of Rules to Facilitate Interservice Sharing of Frequencies in the Private Land Mobile Services Below a Certain MHz Frequency

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules amending Part 90 of the Commission's Rules and Regulations, relating to Private Land Mobile Radio Services, and establishing procedures to accommodate broader interservice-sharing of frequencies on a coordinated basis and to avoid having to act either by waiver or through rule making each time such a request for interservice sharing is received.

DATE: Effective December 10, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C.