

Authority. Secs. 1102, 1814(b), 1832, 1833(a), 1842(b) and (h), 1861(v)(1)(k) and 1871 of the Social Security Act, as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395u (b) and (h), 1395x(v)(1)(K) and 1395hh) unless otherwise noted.

2. In § 405.502, the introductory language for paragraph (a), and paragraph (a)(10) are revised to read as follows:

§ 405.502 Criteria for determining reasonable charges.

(a) *Criteria.* The law allows for flexibility in the determination of reasonable charges to accommodate reimbursement to the various ways in which health services are furnished and charged for. The criteria for determining what charges are reasonable include:

(1) In the case of services of assistants at surgery that meet the exception under § 405.580(c) (2) or (3) because the physician is performing a unique, necessary, specialized medical service in the total care of a patient during surgery, reasonable charges consistent with prevailing practice in the carrier's service area rather than the special assistant at surgery rate.

3. Section 405.580 is amended by revising paragraph (a), revising the introductory language for paragraph (c), and revising paragraphs (c)(1) and (4) as follows:

§ 405.580 Conditions of payment for assistants at surgery in teaching hospitals.

(a) *Basis, purpose, and scope.* This section describes the conditions under which Medicare will pay on a reasonable charge basis for the services of an assistant at surgery in a teaching hospital. This section is based on section 1842(b)(6)(D)(i) of the Social Security Act and applies only to hospitals with an approved teaching program. Except as specified in paragraph (c) of this section, reasonable charge reimbursement is not available for assistants at surgery in hospitals with—

(c) *Conditions for payment for assistants at surgery.* Beginning October 1, 1982, payment on the basis of reasonable charges may be made for the services of an assistant at surgery in a teaching hospital only if the services—
(1) Are required due to exceptional medical circumstances;

(4) Are medically required and are furnished by a physician who is primarily engaged in the field of surgery and the primary surgeon does not utilize interns and residents in the surgical

procedures he or she performs (including preoperative and postoperative care).

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: January 12, 1983.

Carolyn K. Davis,

Administrator, Health Care Financing Administration.

Approved: February 1, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-4238 Filed 2-17-83; 8:45 am]

BILLING CODE 4120-03-M

42 CFR Part 421

Medicare Program; Revisions to Criteria and Standards for Evaluating Intermediaries

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

ACTION: Final rule with comment period.

SUMMARY: This is a technical revision to Medicare regulations that will simplify and improve our system for evaluating the performance of fiscal intermediaries in the administration of the Medicare program. Currently, we evaluate intermediaries using performance criteria, described in regulations, and statistical standards issued through an annual notice in the Federal Register. We are removing the detailed description of the criteria from regulations in favor of issuing a combined Federal Register notice for both the criteria and the standards. This change will obviate the need to revise the description of the criteria in regulations as changes are made in the evaluation system.

DATES: This rule is effective February 18, 1983. It is being issued in final form for reasons explained in Waiver of Proposed Rulemaking in the Supplementary Information section below. However, we will consider any comments mailed by March 21, 1983, and revise the regulations, if necessary.

ADDRESSES: Please address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Attn: BPO-15-FC, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland. In commenting, please refer to BPO-15-FC.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Newton Dikoff, 301-594-8190.

SUPPLEMENTARY INFORMATION:

I. Background

The hospital insurance program (Part A of Medicare, title XVIII of the Social Security Act) helps pay for medically necessary health care furnished to eligible individuals by providers of services (hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)). Under section 1816 of the Act, the Secretary may contract with organizations and agencies to participate in the administration of Part A. These organizations and agencies are called fiscal intermediaries.

Intermediaries perform the bulk of actual bill processing and benefit payment functions for Part A of the Medicare program. These functions generally follow set procedures. First, a provider submits a bill to the intermediary, which determines whether the services are covered under Part A of Medicare, and determines the reasonable cost for the services. Second, the intermediary reimburses the provider on behalf of the beneficiary to whom the services were furnished. Third, the intermediary recoups from HCFA the program reimbursement it makes to providers as well as its administrative costs. Intermediaries similarly process bills for certain outpatient hospital services covered under Part B of Medicare (supplementary medical insurance).

Under section 1816(b) of the Act (originally enacted in section 14 of Pub. L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977), we evaluate intermediaries in the performance of their Medicare functions when we enter into or renew a contract. In addition, although providers may nominate a particular intermediary to serve them under section 1816(a) of the Act, we may assign or reassign providers to particular intermediaries or designate a national or regional intermediary for a class of providers under section 1816(e). We may take these actions if we determine that they would result in more effective and efficient administration of the Medicare program.

Under section 1816(f) of the Act, we are required to establish criteria and standards in regulations for purposes of evaluating intermediaries. Congress enacted this provision because it believed that more precise information, and more uniform criteria and standards, were necessary to provide a basis for objective determinations concerning renewal or termination of intermediary contracts, as well as the assignment of providers to certain intermediaries.

We evaluate intermediary performance based on a two-phase system. In the first phase, we measure compliance with certain functional requirements (that is, functions generally required by law, regulations or general instructions) such as bill processing, provider reimbursement, and contract management. Each of these requirements contains several sub-requirements and methodologies used for assessing compliance that we refer to as performance criteria. The criteria currently are generally described in 42 CFR 421.120. If an intermediary does not satisfy the criteria, we may initiate adverse administrative action.

The second phase of the evaluation system is based on statistical standards (42 CFR 421.122) in more quantifiable areas of performance such as timeliness of bill processing and administrative cost of bill processing. We also require satisfactory performance in this phase of the two-phase evaluation system.

We consider the results of both phases of the evaluation in reviewing intermediary contracts, in determining what action is required to obtain better intermediary performance, and in reaching decisions on renewing contracts and awarding future contracts.

In recognition of changes in the operations of intermediaries due to fluctuating workloads and fiscal constraints, the availability of more current data for setting performance levels, and our objectives in achieving better performance, we update the required performance levels assigned to the performance criteria and statistical standards for each evaluation period. Currently, we issue changes to the elements of both the performance criteria and the statistical standards in our intermediary manuals. In addition, we are required by regulations (42 CFR 421.122(d)) to publish the statistical standards in the *Federal Register*.

We develop the elements of the performance criteria and the statistical standards primarily from management studies conducted by HCFA and information supplied by intermediaries. We also consult with intermediary advisory groups, which provide

additional data and expertise. The intermediaries and intermediary advisory groups furnish us with detailed explanations of the intricacies of their internal operations so that the elements reflect functions actually performed. We also work with these groups to ensure that performance requirements are set at meaningful levels; that is, not so low that evaluation would be meaningless and not so high as to be impossible to attain. After these consultations, and after the elements have been developed, we issue the results to all intermediaries through our manual issuances system, as noted above. (These issuances are available to the general public from HCFA central and regional offices on request. We have then published the statistical standards in the *Federal Register* each year beginning in 1980.

II. Changes in the Regulations

A. Performance Criteria

The performance criteria described in the regulations were first used for the FY 80 evaluation period. Due to the efforts of the intermediary community and HCFA, these criteria have been refined and updated for each subsequent fiscal year evaluation period. We issued the changes in the intermediary manuals but have not amended the regulations. It is apparent that, in order to keep the CFR current under the present system, it will be necessary to amend the regulations frequently. Changes in the Medicare law and in our evaluation procedures, as well as changing emphases in the importance of evaluating the various areas of performance, make existing criteria contained in the CFR out-of-date. Therefore, we are amending § 421.120 to replace the specific criteria with a general explanation of the areas evaluated by the performance criteria, and to state that we will publish the specific performance criteria and elements as part of the notice that we are currently required to publish for the statistical standards under § 421.122. The result will be the publication of a combined notice of performance criteria and statistical standards that will obviate the need to amend the regulations on an annual basis. We believe that this approach will be less burdensome, costly and time consuming than the frequent efforts that would otherwise be necessary to amend the CFR because we are already required to follow the notice procedure in order to update the statistical standards. Expanding the notice to include the performance criteria will not materially increase the administrative burden of issuing the notice. Moreover, we believe

that this approach complies with the statutory mandate (section 1816(f) of the Act) to establish criteria and standards by regulation.

Each year, beginning with FY 84, we intend to publish a proposed notice, for public comment, on the criteria and standards and a final notice that will address comments received. This will allow the public-at-large to review the proposed revisions to the evaluation system and make comments before the changes are implemented. As is our current practice, however, we will continue to issue the criteria and standards to the intermediaries through our manual issuance system. A notice containing proposed criteria and standards for FY 84 will appear in the *Federal Register* shortly.

For FY 83, we have issued a general notice for both the criteria and the standards. The notice appears elsewhere in this issue of the *Federal Register*. As a practical matter, we are unable to issue proposed and final *Federal Register* notices for the FY 83 criteria and standards because of the limited amount of time still available to us during FY 83. However, intermediaries have been extensively involved in the development of the criteria and standards through workshops and meetings. In addition, both the criteria and the standards for FY 83 have already been issued to the intermediaries through our manual issuance system. We are also affording the intermediaries and other interested parties an opportunity to review and comment on the criteria and standards by providing a comment period on the general notice. We will issue any changes in the evaluation system for FY 83, which we determine are necessary as a result of the comments, in a subsequent notice in the *Federal Register*.

B. Statistical Standards

We are also revising the statistical standards provision (§ 421.122). An important characteristic of the current unit cost standard is the accountability for significant measurable factors that are beyond the control of the intermediary and that impact upon unit cost. For example, how well intermediaries perform their Medicare responsibilities is inevitably affected by factors beyond their control such as differing salary levels between geographic areas, various levels of bill workloads, and variations of bill-mix by provider type. As explained in the existing regulations, we use a statistical approach known as multiple regression analysis to identify these

noncontrollable factors so that we may make proper adjustments to intermediary performance. Regression analysis also quantifies the extent of the impact on unit cost or other performance measures.

After consulting with the intermediary community, we have concluded that the use of other statistical approaches, besides multiple regression analysis, should be explored (for example, factor analysis and linear programming). The use of more than one statistically acceptable approach permits more rigorous analyses and, in many instances, a better understanding of factors that may influence performance. Though we will continue to include the multiple regression approach as part of our studies, we will no longer be limiting ourselves to this one methodology. Based on our analyses, which employ these statistical approaches, we will identify noncontrollable factors that affect unit cost and determine which of the factors to consider in making appropriate adjustments to the statistical standards. This is reflected in paragraph (c) of the revised § 421.122.

III. Impact Analyses

A. Executive Order 12291

These regulations are intended to improve an evaluation system already in place. No increased costs will be incurred by the Federal government or the intermediaries. Therefore, we have determined that this final rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this rule will not increase expenditures by over \$100 million per year; or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effect on business or employment. Because we have determined that this rule is not a major rule, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that these regulations will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions. The changes to the existing regulations do not add to or alter the functions that intermediaries already perform for the Medicare program and, therefore, will not increase the cost of an intermediary's Medicare operation. For this reason, a regulatory flexibility analysis is not required.

C. Discussion

As noted above, the provisions of these regulations will not meet the threshold criteria of Executive Order 12291 or of the Regulatory Flexibility Act. Thus, we are not required to conduct analysis under either of those authorities. In addition, however, we note that even if there are incidental costs associated with these provisions, they will be outweighed by the accompanying benefits resulting from not amending regulations in the CFR periodically in order to update the evaluation criteria.

IV. Waiver of Proposed Rulemaking and Prospective Effective Date

These regulations are essentially technical in that they constitute a simplification in the administration of our system for evaluating intermediary performance. No policy changes are contained in the regulations, and no increased costs to intermediaries will result. Moreover, the change from the detailed description of the performance criteria in the regulations will not adversely affect intermediaries because they will continue to receive actual notice of the criteria through the issuance of administrative manuals, and because of the change in procedure to publication of both the criteria and the standards in proposed and final notices in the Federal Register.

Also, we plan to begin the proposed and final notice procedure beginning with FY 84. Therefore, it is important that the general public and the intermediary community be informed of this approach as soon as possible.

For those reasons, we believe that publication of a notice of proposed rulemaking is unnecessary and that there is good cause to waive the usual proposed rulemaking procedures. For the same reasons, we find good cause to waive the usual 30-day delay in the effective date. Although we are publishing these regulations in final form, we invite comments from the public and we will publish any changes we find necessary.

V. List of Subjects in 42 CFR Part 421

Administrative practice and procedure, Contracts (Agreements), Courts, Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Information (Disclosure), Lawyer, Medicare, Professional Standards Review Organizations (PSRO), Reporting requirements.

PART 421—[AMENDED]

42 CFR Part 421 is amended as set forth below:

A. The authority citation for Part 421 reads as follows:

Authority: Secs. 1102, 1815, 1816, 1842, 1861(u), 1871, 1874 and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395u, 1395x(u), 1395hh, 1395kk and 1395ll), and 42 U.S.C. 1395b-1.

B. Part 421, Subpart B is amended as follows:

1. Section 421.100 is amended by revising paragraph (a) as follows:

Subpart B—Intermediaries

§ 421.100 Intermediary functions.

An agreement between the Administrator and an intermediary shall provide for the performance of the following functions:

(a) *Coverage.* The intermediary must assure that it makes payments only for services that are:

- (1) Furnished to Medicare beneficiaries;
- (2) Covered under Medicare part A or part B; and

(3) Medically necessary. When a Professional Standards Review Organization (PSRO) has assumed review responsibility in accordance with the applicable provisions of Part 463 of this chapter, the PSRO shall make final determinations of medical necessity which are binding for purposes of payment.

2. Section 421.120 is revised to read as follows:

§ 421.120 Performance criteria.

(a) *Application of performance criteria.* As part of the intermediary evaluations authorized by section 1816(f) of the Act, HCFA periodically assesses the performance of intermediaries in their Medicare operations using performance criteria. The criteria measure and evaluate intermediary performance of functional responsibilities such as—

- (1) Correct coverage and payment determinations;
- (2) Responsiveness to beneficiary concerns; and
- (3) Proper management of administrative funds.

(b) *Basis for criteria.* HCFA will base the performance criteria on—

- (1) Nationwide intermediary experience;
- (2) Changes in intermediary operations due to fiscal constraints; and
- (3) HCFA's objectives in achieving better performance.

(c) *Publication of criteria.* The development and revision of criteria for evaluating intermediary performance is a continuing process. Therefore, before the beginning of each evaluation period, HCFA will publish the performance criteria as a notice in the Federal Register.

3. Section 421.122 is revised to read as follows:

§ 421.122 Statistical standards.

(a) *Development of standards.* In addition to the performance criteria (§ 421.120), HCFA will develop statistical standards, for use in evaluating intermediary performance, based on application of acceptable statistical measures of variation to nationwide intermediary experience during a base period. HCFA will adjust those standards dealing with administrative cost to reflect both the estimated effect of inflation and increased intermediary productivity.

(b) *Factors beyond intermediary's control.* To identify measurable factors that significantly affect an intermediary's performance, but that are not within the intermediary's control, HCFA will—

(1) Study the performance of intermediaries during the base period using acceptable statistical approaches (for example, multiple regression analysis); and

(2) Select the noncontrollable factors to be used in adjusting performance standards.

(c) *Publication of standards.* The development and revision of standards for evaluating intermediary performance is a continuing process. Therefore, before the beginning of each evaluation period, HCFA will publish the statistical standards as part of the Federal Register notice describing the performance criteria issued under § 421.120(c).

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

Dated: December 30, 1982.

Carolyn K. Davis,
Administrator, Health Care Financing Administration.

Approved: January 28, 1983.

Richard S. Schweiker,
Secretary.

[FR Doc. 83-4222 Filed 2-17-83; 8:45 am]
BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6352

[U-47669]

Utah; Public Land Order No. 6262; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6262 of June 17, 1982.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office 801-524-4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is hereby ordered as follows:

1. Public Land Order No. 6262 of June 7, 1982, in Federal Register Vol. 47, No. 117 appearing at page 26132 in the issue of June 17, 1982, is corrected as follows:

2. The T. and R. listed as "2 N., 14 W" is corrected to read "T. 2 N., R. 14 E."

Inquires concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East Temple, Salt Lake City, Utah 84111.

Dated: February 9, 1983.

Garrey E. Carruthers,
Assistant Secretary of the Interior

[FR Doc. 83-4242 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Part 3833

Recordation of Mining Claims and Filing of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill Sites, or Tunnel Sites; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to Final Regulations.

SUMMARY: This notice corrects typographic and editorial errors found in the final regulations, related to recordation of unpatented mining claims located on public lands, which were published in the Federal Register December 15, 1982 (47 FR 56300).

ADDRESS: Any suggestions or inquiries should be addressed to: Director (570),

Bureau of Land Management, 1800 "C" Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Roger A. Haskins, (202) 343-8537.

SUPPLEMENTARY INFORMATION:

1. Section 3833.0-5:

A. Paragraph (m) on page 56305 is corrected by removing the citation "§ 3833.2-1(a)" from the third sentence and replacing it with the citation "§ 3833.1-2"; and changing the word "file" on line 5 of the paragraph to "filed".

B. Paragraph (o) on page 56305 is corrected by removing the words "December 31st" and replacing it with the words "January 1st" and deleting the words "of the following year" and placing a period after the figure "30th".

2. Section 3833.1-2(b)(6) on page 56305 is corrected by removing the word "town" from the second sentence and replacing it with the word "township".

3. Section 3833.2-1:

A. Paragraph (b)(1) on page 56306 is corrected by removing the quotation mark at the end of the words "United States Forest Service" and inserting the words "after October 26, 1976 shall".

B. Paragraph (d) on page 56306 is corrected by removing the citation "43 CFR" in the first line and replacing it with the citation "U.S.C.".

4. Section 3833.2-3(c)(3) on page 56307 is corrected by removing it in its entirety as was stated in the preamble; and removing the semicolon at the end of subparagraph 3833.2-3(c)(2) and replacing it with a period.

5. Section 3833.4(a) is corrected by removing the figure "(b)," from the first sentence.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

[FR Doc. 83-4175 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 303

Child Support Enforcement Program; Requests for Full Collection Services by the Secretary of the Treasury

Correction

In FR Doc. 82-10254 beginning on page 16027 in the issue for Wednesday, April 14, 1982, make the following change to § 303.71 on page 16030: in the middle column, the ninth paragraph currently designated "(i)" should read "(3)(i)".

BILLING CODE: 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Forty-Seventh Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Forty-Seventh Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation. **EFFECTIVE DATE:** 12:01 a.m., February 9, 1983, and continuing in effect until 11:59 p.m., July 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: February 7, 1983.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 1.A., the authority for Peoria and Pekin Union Railway (PPU) to operate Peoria Terminal trackage east of the Illinois River. This trackage has been purchased by PPU. Appendix A is further revised by deleting at Item 24, the authority for the Colorado & Eastern Railway Company (COE) to operate at Lincoln, Nebraska. COE was granted

overlapping authority with the Omaha, Lincoln and Beatrice Railway Company (OLB) at Lincoln in order to serve one shipper not served by OLB. While COE has occupied Rock Island facilities at Lincoln, no service has been provided during the period this authority has been in effect. In addition, OLB has since leased the track authorized to COE and proposes to provide full and immediate service to shippers. Finally, the Trustee reports that no compensation has been paid the Rock Island by COE for the time it has occupied the property. All succeeding items are numbered accordingly.

Appendix A is further revised by adding at Item 23, the authority for OLB to extend its operation at Lincoln, Nebraska, as described in the appendix.

An application has been received from COE requesting interim authority in Iowa, Nebraska, Kansas, and Missouri, over Rock Island lines which, in some cases, presently have rail service. COE has been requested to provide additional information to the Board on these overlapping operations, as well as certification of the right to do business in Kansas, Missouri, and Iowa, and compensation arrangements with the Trustee. Further action on COE's application has been suspended pending the receipt of the requested information.

Appendix B of Forty-Third Revised Service Order No. 1473 is unchanged and is incorporated into this order by reference.

It has been brought to the attention of the Board that, in certain cases, payment of compensation to the Trustee for the use of Rock Island property is in arrears. All interim operators are reminded that compensation, whether determined by lease, agreement, or the Rock Island Formula, is a requirement of this order and should remain current.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities, that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

Various Railroads Authorized to Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) § 1033.1473 Service Order No. 1473. Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad

Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties, or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator

incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(K) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 9, 1983.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96-254.

This order shall be served upon the Association of American Railroads, Transportation Division as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland,

Bernard Gaillard, and John H. O'Brien. Bernard Gaillard not participating.

Agatha L. Mergenovich,
Secretary.

Appendix A—RI Lines Authorized to Be Operated by Interim Operators

1. Peoria and Pekin Union Railway Company (PPU):

A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. Union Pacific Railroad Company (UP):

A. Beatrice, Nebraska.
B. Approximately 38.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. Toledo, Peoria and Western Railroad Company (TPW):

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. Chicago and North Western Transportation Company (CNW):

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Brice, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

P. at Hartley, Iowa.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska, (between milepost 502 to milepost 504).

5. Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):

A. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. Missouri Pacific Railroad Company (MP):

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

7. Norfolk and Western Railway Company (NW): is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

8. Cadillac and Lake City Railway Company (CLK):

A. from Poplar Street (milepost 0.76) to and including junction with DRGW Belt Line (milepost 3.99) all in the vicinity of Denver, Colorado.

B. from Colorado Springs (milepost 608.93) to Caruso, Kansas (milepost 430.0) a distance of 178.93 miles.

C. over-head rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.

9. Baltimore and Ohio Railroad Company (BO):

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

10. Keota Washington Transportation Company (KWTR):

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

11. The La Salle and Bureau County Railroad Company (LSBC):

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10, and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

12. The Atchison, Topeka and Santa Fe Railway Company (ATSF):

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

13. *The Brandon Corporation (BRAN):*

A. from Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.

14. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)

B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

15. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see item, 5.E.)

E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see item 6.D.)

G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 28th Street Yard.

J. from Altoona to Pella, Iowa.

16. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

17. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

18. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

19. *North Central Oklahoma Railway Inc. (NCOK):*

A. from Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).

B. from El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

C. from Geary, Oklahoma (milepost 0.0) to Okeene, Oklahoma (milepost 39.0) a distance of approximately 39 miles.

20. *South Central Arkansas Railway, Inc. (SCAR):*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

21. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

22. *Fort Worth and Denver Railway (FWD):*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

23. *Omaha, Lincoln and Beatrice Railway Company (OLB):*

*A. at Lincoln, Nebraska (milepost 559.16) to (milepost 561.37).

24. *Enid Central Railway Company, Inc. (ENIC):*

A. from North Enid, Oklahoma (Milepost 0.12) to Ponca City, Oklahoma (milepost 54.8).

25. *Texas North Western Railway Company (TNW):*

A. from Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.

*Changed.

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49 CFR Part 1201

[Docket No. 36988]

Alternative Methods of Accounting for Railroad Track Structures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rule.

SUMMARY: This rule revises the Commission's accounting regulations for track assets. The rule changes the method of accounting for track structure from retirement-replacement-betterment (RRB) to ratable depreciation accounting. Ratable depreciation accounting will: (1) More accurately match the asset costs consumed in each accounting period with related revenues; (2) more accurately measure railroad investment in track assets; (3) improve the Commission's ability to assess revenue adequacy and (4) make financial statements more comparable with other industries.

The Commission recognizes that inflation has somewhat diminished the value of historical cost financial statements and that sound economic principles require the impact of inflation

to be taken into account in railroad ratemaking. Therefore, the Commission is proposing procedures for inflation accounting that will be used for all property accounts assets in the Commission's future regulatory determinations in Ex Parte No. 393. Data submitted under depreciation accounting is necessary before we can implement inflation accounting.

The Commission also recognizes that railroads need time to implement ratable depreciation accounting. Consequently, although depreciation accounting is effective for the reporting year beginning January 1, 1983, railroads will only reflect ratable depreciation accounting for track assets in the 1983 annual report Form R-1 (due to be filed by March 31, 1984). Railroads will file 1983 quarterly reports using RRB accounting. Railroads are asked to footnote their quarterly reports with estimated results of operations under depreciation accounting based on data available from the Commission.

DATE: This final rule is effective for the reporting year beginning January 1, 1983.

ADDRESS: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th and Constitution Avenue, NW., Washington, D.C. 20423, (202) 289-4357—D.C. Metropolitan area, (800) 424-5403—toll free for outside D.C. area.

FOR FURTHER INFORMATION CONTACT: Brian Holmes, (202) 275-7448.

SUPPLEMENTARY INFORMATION: In considering this change, we issued a Notice of Proposed Rulemaking (NPR), served June 22, 1981, 46 FR 32289 (June 22, 1981), and served a Supplemental Notice of Proposed Rulemaking (SNPR), on March 16, 1982, 47 FR 11539 (March 17, 1982). Several parties filed comments in response to both documents. After reviewing the comments, we have decided that track structure should no longer be treated differently from other assets for accounting purposes. We have concluded that, because DA (unlike RRB) relates cost consumption to the utilization of assets over time, it should be used for all assets except land.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic impact on a substantial number of small entities. This decision directly affects only Class I railroads which have annual revenues of \$50 million or more. No substantial number of small entities shall suffer from this action.

This decision will not significantly affect the quality of the human