

the lender, holder, and FmHA. Copy(ies) of the Interest Rate Buydown Agreement will be kept in the County Office, attached to the appropriate Loan Note Guarantee. Additional copies may be retained by the State Office. Copies of all issued Interest Rate Buydown Agreements will be kept in the file.

3. Repurchase of guaranteed loans having interest rate buydown under this Demonstration Project. See Item number 10 of Form FmHA 449-36 and item number 6 of Form FmHA 1980-58. When FmHA purchases a portion of the guaranteed loan, buydown payments on that portion shall cease, but the interest rate reduction shall remain in effect.

VII. Interest Rate Buydown Claims and Payments

Claims and payments will be processed in accordance with paragraph 3 of Form FmHA 1980-58. Such claims and payments will be processed in accordance with paragraph 2 of Form FmHA 1980-58.

VIII. Term of Buydown Agreement.

The term of a buydown agreement entered into under this exhibit shall not exceed 5 years or the outstanding term of the loan involving the interest rate buydown, whichever is less.

IX. Cancellation of Interest Rate Buydown

Form FmHA 1980-58, is incontestable except for fraud or misrepresentation, of which the lender has actual knowledge at the time the Interest Rate Buydown Agreement is executed, or for which the lender participates in or condones.

X. Excessive Interest Rate Buydown

Upon written notice to the lender, borrower and any holder(s), the Government may amend or cancel the Interest Rate Buydown Agreement and collect from the lender any amount of reduction granted which resulted from incomplete or inaccurate information (of which the lender was aware), an error in computation, or any other reason which resulted in payment that the lender was not entitled to receive.

XI. Transfer and Assumption of Loans Involving Interest Rate Buydown

Transfers will be processed in accordance with § 1980.123 of this subpart. If the buydown is necessary for the transferee to

achieve a positive cash flow the lender must make application for an initial buydown under this exhibit.

XII. Review by FmHA Employees

The lender will submit Form FmHA 1980-24, "Request Interest Rate Buydown/Subsidy Payment to Guaranteed Loan Lender," annually along with detailed calculations and a statement of activity of the borrower's account to support the claim. The County Supervisor will approve such requests, if correct, and forward to the Finance Office for payment. FmHA may review audit reports by the lender's supervising agency when buydown claims are involved.

17. Exhibit F to Subpart B is added and reads as follows:

Exhibit F—Shared Appreciation Agreement (PREPARE ONE FOR EACH LOAN/LINE OF CREDIT TO BE WRITTEN DOWN)

This Agreement is entered into between (Lender's name) (called "Lender") and (Borrower's name) (called "Borrower") on (Date) and expires on (Date) (maximum term of ten (10) years).

Borrower is indebted to Lender for a loan or line of credit as evidenced by the note(s) or line of credit agreement(s) described below:

Date	Principal amount	Interest rate	Due date
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This Agreement is attached to the note(s) or line of credit agreement(s) described above. As of the date of this Agreement, before write down, the unpaid principal balance on this note or line of credit agreement was \$_____ and the unpaid interest balance was \$_____. If a line of credit agreement is involved, the new line of credit ceiling is \$_____, and no new advance will be made under the line of credit agreement(s).

The note or line of credit agreement described above is secured by the following real estate security instruments:

Grantor	Date of security instrument	Records of county state	Book or reel	Page
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Lender agrees to write down \$_____ of principal and accrued interest of the above-described note or line of credit agreement. After the write down, there is now due and owing the principal sum of \$_____ plus interest in the sum of \$_____ together with interest accruing from the date of this agreement on the unpaid principal balance at the rate of _____%.

As a condition to, and in consideration of, Lender writing down the above amounts and restructuring the loan, Borrower agrees to pay Lender an amount according to one of the following payment schedules:

1. Seventy-five (75) percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement as described in the above security instrument(s) between the date of this Agreement and either the expiration date of this Agreement or the date Borrower pays the loan or line of credit in full, ceases farming or transfers title of the security, if such event occurs four (4) years or less from the date of this Agreement.

2. Fifty (50) percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement above as described in the security instruments between the date of this Agreement and either the expiration date of this Agreement or the date Borrower pays the loan or line of credit in full, ceases farming or transfers title of the security, if such event occurs after four (4) years but before the expiration date of this Agreement.

The amount of recapture by Lender will be based on the difference between the value of the security at the time of disposal or cessation by Borrower of farming and the value of the security at the time this Agreement is entered into. Both values will be determined through an appraisal conducted by Lender.

(Borrower signature)

(Lender signature)

Date: April 22, 1988.

Laverne Ausman,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 88-13418 Filed 6-16-88; 8:45 am]

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Test Report Federal Land

Friday
June 17, 1988

Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 3000, etc.

Minerals Management; Onshore Oil and
Gas and Geothermal Leasing; Final
Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3100, 3110, 3120, 3130, 3160, 3180, 3200, and 3280

[AA-620-88-4111-01-24-10; Circular No. 2608]

Minerals Management; General Oil and Gas Leasing; Noncompetitive Leases; Competitive Leases: Oil and Gas Leasing—National Petroleum Reserve—Alaska: Onshore Oil and Gas Operations: Onshore Oil and Gas Unit Agreements—Unproven Areas: Geothermal Resources Leasing; General: Geothermal Resources Unit Agreements—Unproven Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing regulations covering competitive and noncompetitive onshore oil and gas leasing on Federal mineral lands managed by the Bureau of Land Management, including Federal minerals underlying National Forest System lands, to comply with the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (Pub. L. 100-203), enacted as part of the Omnibus Budget Reconciliation Act of 1987, hereinafter referred to as the Reform Act. Section 5107 of the Reform Act requires that final regulations be issued within 180 days after the date of enactment, December 22, 1987, to be effective when published in the *Federal Register*. This final rulemaking also contains amendments to implement bonding and reclamation provisions contained in the Reform Act as well as revisions of bonding requirements recommended by a Bureau of Land Management task force that reviewed bonding procedures for oil and gas and geothermal resources leasing.

The provisions of this final rulemaking include procedures for the conduct of oral auctions by each Bureau of Land Management State Office at least quarterly for lands available for oil and gas leasing. The payments required on the day of the auction for each parcel bid on are required to include the national minimum acceptable bid of \$2 per acre, the total first year's rental, and a \$75 administrative fee to help defray the costs of the sale. The remainder of the bonus bid moneys for each parcel are required to be remitted within 10 working days from the last day of the auction, otherwise all moneys submitted are forfeited. Noncompetitive offers for parcels not sold will be accepted for a 2-

year period beginning the first business day following the auction or, where formal nominations are used, the first business day following the posting of the sale notice. Those offers filed from the first day following the end of the competitive process until the end of that same month are required to be described only by the parcel number used in the sale list or notice. For the remainder of the 2-year period, the legal land description of the parcel(s) or any portion thereof must be provided. In addition to offering parcels selected by the Bureau, the final rulemaking provides administrative flexibility to allow for either informal expressions of interest or a formal nomination process to determine the lands to be offered competitively. As stated later in this preamble, the Director elects to permit informal expressions of interest but declines to implement a formal nomination process at this time.

Additionally, noncompetitive offers may be filed on certain unleased lands prior to the competitive process. However, no noncompetitive lease may issue for any such lands until they have been offered competitively and filed to receive a bid. The final rulemaking allows letters of credit and certificates of deposit as acceptable forms of bonding, and also requires 100 percent bond coverage for any entity that has failed to comply with the reclamation requirements on other leases over the past 5 years. For the majority of operators, the existing bond amounts are considered adequate to ensure the complete and timely reclamation of the lease tract and restoration of any lands or surface waters adversely affected by lease operations. An acceptable surface use plan of operations, in addition to the drilling plan, is required from all operators prior to approval, following 30 days posting, of the drilling permit by the authorized officer.

EFFECTIVE DATE: June 17, 1988.

ADDRESS: Inquiries or suggestions should be sent to: Director (500), Bureau of Land Management, Room 5647, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Judith I. Reed, (202) 653-2190.

SUPPLEMENTARY INFORMATION: A proposed rulemaking amending the regulations in 43 CFR Parts 3000, 3100, 3110, 3120, 3130, 3160, 3180, 3200, and 3280 was published in the *Federal Register* on March 21, 1988 (53 FR 9214), with a 30-day comment period. During the comment period, comments were received from 94 sources: 62 from business interests, primarily related to the oil and gas industry; 4 from

attorneys; 11 from associations; 3 from State Governments; 1 from a Member of Congress; and 13 from Federal agencies. A few comments requested that the comment period be extended. Other commenters did not request an extension of the comment period, but rather suggested that the Department continue to solicit comments or that public hearings be held. Because of the short statutory deadline under section 5107 of the Reform Act, the Bureau of Land Management could not allow an extension of the comment period and still be able to meet the statutory 180-day deadline. Many of the Bureau State Offices have held oil and gas meetings and forums during this 6-month period to describe and discuss the program changes and to address a great many of the questions and comments raised concerning the changes required by the Reform Act. The Bureau State Office oil and gas meetings will continue to provide a forum to discuss matters concerning the leasing program. The Bureau will consider reviewing the regulations implementing new provisions mandated by the Reform Act in connection with the statutory provision for the Secretary's review, following the second anniversary of the Reform Act, of the minimum acceptable competitive bid.

A few comments expressed concern regarding the impact of the Reform Act and its implementing regulations on independent operators of the oil and gas industry. The comments stated that the Federal onshore oil and gas leasing provisions of the Reform Act would pressure the independent operators and limit wildcat drilling and exploration. The Bureau of Land Management is aware of these concerns. The final rulemaking allows as much administrative flexibility and simplicity as possible within the constraints of the Reform Act, to serve the public interest.

Numerous comments were received on specific sections of the proposed rulemaking. The comments and the action taken in response to them are discussed in this preamble. In some instances, comments were concerned with matters that were addressed in the final rulemaking published on May 16, 1988 (53 FR 17340).

Part 3000—Minerals Management; General

One comment suggested that authority citations be limited to Groups rather than Parts of each Code of Federal Regulations section. The regulations of the Office of the Federal Register require that an "authority citation" be included prior to each part of the rules. The

authority section also is included within certain parts of the Code of Federal Regulations since it makes the part complete, particularly where there are special statutory provisions in certain parts that need to be fully identified in the authority section of the specific rule part.

Two comments recommended that the citations of authorities should include the Federal Oil and Gas Leasing Reform Act of 1987. Since the Reform Act is an amendment to the Mineral Leasing Act (30 U.S.C. 181 *et seq.*), no further citation is required. The final rulemaking makes no change in the authority citations contained in the proposed rulemaking.

Section 3000.0-5 Definitions.

A few comments suggested removal of the proposed rulemaking § 3000.0-5(f)(1) that would allow parcel nominations of expressions of interest to be filed in a Bureau of Land Management office other than the Bureau office having jurisdiction over the lands. This suggestion is adopted by the final rulemaking. Experience during the test sales has shown that the handling of nominations by another Bureau office is a cumbersome process. This section of the regulation has been removed in the final rulemaking.

Some comments suggested that a new paragraph "(p)" be added in § 3000.0-5 of the final rulemaking to define "control" as found in section 5102(d) of the Reform Act (30 U.S.C. 226(g)). The final rulemaking has been amended at § 3102.5-1(f) to include a reference to § 3400.0-5(rr) for a definition of "controlled by or under common control with."

Section 3000.4 Appeals.

A few comments noted an inconsistency between the appeal provisions of this section of the existing regulations and those contained in §§ 3101.7-3 and 3120.1-3 of the proposed rulemaking. This section has been amended in the final rulemaking to add certain citation cross-references to clarify when the appeal provisions of 43 CFR Part 4 are not wholly applicable.

Section 3000.9 Enforcement.

Several comments addressed § 3000.9 of the proposed rulemaking. The majority of the comments expressed a need to clarify and establish the limits of this provision. Most of the comments were concerned that parties other than the Government would use the new provision of the Mineral Leasing Act to create a private right of action. One comment suggested that the anti-fraud provisions of the Reform Act were aimed only at past abuses. One

comment expressed the view that the final rulemaking should limit the applicability of this provision and penalties to leases issued under the mineral leasing laws subsequent to enactment of the Reform Act. One comment expressed concern that the wording of the regulation does not allow the Bureau of Land Management special agents, U.S. Postal Inspectors, the authorized officer, and others, to participate in enforcement actions. The enforcement paragraph in the proposed rulemaking was intended to recognize the existence of section 41 of the Mineral Leasing Act. The provisions of this section of the Act, including the interpretation thereof, are under the jurisdiction of the Department of Justice. The language in the regulation does not preclude such other parties from assisting the Justice Department in carrying out the enforcement provisions of the Reform Act. The final rulemaking adopts the proposed language without change.

Part 3100—Oil and Gas Leasing

Section 3100.0-3 Authority.

One comment expressed concern about § 3100.0-3 (a)(2) and (b)(2) of the proposed rulemaking, and suggested that a surface managing agency would informally, without proper procedure, recommend wilderness allocation for lands whenever it received a leasing request. The comment requested identification of the procedures for recommending wilderness allocation. The Bureau is not aware of any specific procedures by which a surface managing agency recommends that land be allocated for wilderness. The Bureau interprets this provision of the regulations to refer to lands that the surface managing agency has already recommended for wilderness allocation to the President or to the Congress. The final rulemaking adopts the proposed language of § 3100.0-3 (a)(2) and (b)(2) without change.

Another comment suggested that lease offers within the specific types of wilderness study areas identified in § 3100.0-3 (a)(2) and (b)(2) of the proposed rulemaking that were pending upon enactment of the Reform Act should not be rejected, and contended that the provision of the new law prohibiting leasing of these areas did not require rejection of such pending offers. Apart from this rulemaking, by administrative action, the Bureau of Land Management will keep as pending those pending offers located in Bureau wilderness study areas or in areas allocated for wilderness or further

planning in Executive Communication 1504.

One commenter suggested that § 3100.0-3(g)(4) concerning National Parks and Monuments be revised to be consistent with the terminology used in § 3100.0-3 (a)(2) and (b)(2) of the final rulemaking published in the *Federal Register* on May 16, 1988 (53 FR 17340). The Bureau of Land Management concurs and this change to refer to units of the National Park System has been adopted in the final rulemaking.

Section 3100.0-5 Definitions.

Several comments suggested that "control" for purposes of determining compliance with section 5102(d) of the Reform Act (30 U.S.C. 226(g)) should be defined in § 3100.0-5 of the regulations. The final rulemaking clarifies this matter by placing in § 3102.5-1(f) a cross-reference to the definition contained in 43 CFR 3400.0-5(rr) of the existing regulations. The requirements for "control" in section 5102(d) of the Reform Act are consistent with those in the Mineral Leasing Act, 30 U.S.C. 201(a)(2)(A) pertaining to control of Federal coal lease holdings. There is further discussion of this matter later in this preamble under § 3102.5.

A few comments suggested that the Bureau was premature in removing the definition of a "known geological structure" in this section and in § 3100.3 of the existing regulations. However, since the "grandfathered" offers will be adjudicated under the regulations in effect at the time of filing, which remain available for reference in earlier editions of the CFR, this provision is now obsolete and should not be retained. Including it in current regulations could cause confusion when new offers are submitted.

Several comments noted that Subpart 3110 and the definition in § 3100.0-5(k) of the proposed rulemaking failed to allow for the filing of noncompetitive offers prior to the competitive offering of such lands. The commenters suggested that such offers be allowed for wildcat lands for leasing such lands so long as they are first processed through the competitive process. This recommendation is adopted. The definition of the term "offer for noncompetitive lease" in paragraph (k) of this section in the proposed rulemaking has been removed. A specific definition of this term is not necessary. Subpart 3110 more properly addresses the provisions concerning noncompetitive lease offers. Further discussion of this provision is made later in this preamble under Subpart 3110.

A few comments suggested that § 3100.0-5(1) of the proposed rulemaking be amended to require that all bids be on a per-acre basis. The type of approach of bidding has not been specified in the final rulemaking in order to allow administrative flexibility in setting bidding procedures by individual Bureau of Land Management State Offices. Further discussion on this issue is made later in this preamble in conjunction with Subpart 3120.

Section 3101.1-3 Stipulations and information notices.

A technical change is made in this section of the final rulemaking published on May 16, 1988 (53 FR 17340) to clarify that when noncompetitive lease offers are filed during the 2-year period subsequent to competitive offering, the offeror is deemed to have agreed to all applicable lease stipulations that are indicated in the list or notice of parcels available that was posted in the proper BLM office.

In response to comments made on § 3110.4 of the proposed rulemaking requesting that offerors be notified of the stipulations placed on lands in offers filed prior to a competitive offering, the final rulemaking amends § 3101.1-3 to specify that, unless the offer is withdrawn, the offeror is deemed to have agreed to the stipulations applicable to the parcel as indicated in the List of Land Available for Competitive Nominations or the Notice of Competitive Lease Sale. Further discussion may be found later in this preamble under § 3110.6.

Section 3101.1-4 Modification or waiver of lease terms and stipulations.

Use of the term "waiver" in this section of the proposed rulemaking resulted in misunderstanding in numerous comments. There are situations where a stipulation is no longer needed to protect other resources and under such situations waiver is an appropriate remedy as well as lease modification. The Bureau will undertake to identify such actions which are deemed substantial and, as required by statute, provide at least 30 days notice.

Two comments on this section of the proposed rulemaking suggested that the proposed language does not fully implement the Reform Act in that all stipulation "waivers" would not be subjected to public review. These commenters contended that the Reform Act's reference to "substantial modification" of lease terms should include all stipulation "waivers." Given the nature of stipulation exceptions that are generally granted, and the basis used for granting such exceptions, it is

clear that not all involve substantial modification of the lease terms. Approval of waiver or modification will reside with the authorized officer who is in the best position to exercise that judgment.

Some of the comments suggested that this section specifically provide lessees and operators an opportunity to request waivers and require the authorized officer to make a determination on a waiver within 30 days of receipt of evidence of whether the condition justifying a stipulation modification continues to exist. No change is made in the final rulemaking to accommodate these comments because lessees and operators are not precluded from petitioning for a lease modification. However, consideration of lease modifications should ordinarily be prompted by a specific proposal for lease operations rather than by a desire to, in effect, renegotiate the terms of a lease. A technical change is made in the final rulemaking to make it clear that a substantial modification or waiver of a lease term subsequent to lease issuance is also required to be subject to public review for at least 30 days.

A few comments requested that the final rulemaking clarify, with respect to National Forest System lands, who is the appropriate authorized officer, a representative of the Forest Service, the Bureau, or both agencies. These comments also suggested that the final rulemaking require that the authorized officer follow the posting procedures required in the Reform Act in such a manner that the stipulation modification would be required to be posted concurrently with the Application for Permit to Drill in order to avoid additional delay in development plans of an operator. Some comments also suggested that the time necessary for the Bureau to identify the need for stipulation waivers not identified by the operator could delay posting of the Application for Permit to Drill. Operators and the public are advised that posting of a lease waiver or modification will be as prompt as possible. The final rulemaking has not adopted this suggestion. The authorized officer for any lease waiver or modification is the Bureau of Land Management State Director since that is the office of lease issuance. However, with respect to National Forest System lands, the Bureau cannot waive or modify a stipulation that involves surface disturbance without the approval of the U.S. Forest Service since the Reform Act directs the Secretary of Agriculture to regulate all surface disturbing lease activities within the National Forest System.

Section 3101.7-1 Federal lands administered by an agency outside of the Department of the Interior.

Numerous comments were received on this section. Some of the comments recommended that the final rulemaking make it clear whether approval from the surface managing agency to lease is required to be received prior to or after a competitive lease sale. A few comments objected to the requirement that the surface managing agency must give approval before leasing. It is Bureau of Land Management policy to offer lands, the surface of which is administered by another agency, only after leasing recommendations or, when statutorily required, consent or lack of objection and stipulation requirements have been rendered from the surface managing agency. The proposed provision is adopted without change in the final rulemaking.

Other comments suggested that specific language should be added in the final rulemaking to clarify the requirements for consent for Forest Service administered lands. The comments have been adopted in the final rulemaking and a new paragraph (c) is added to address lands reserved from the public domain as well as acquired lands administered by the Forest Service.

Several comments expressed concern about the effect of inaction by the Forest Service on requests for leasing. Some comments suggested that the Bureau of Land Management publish a list of lands "withdrawn" from leasing due to Forest Service nonconsent. This suggestion has not been adopted by the final rulemaking since it is Bureau policy to offer only those lands for which consent, as required by law, and stipulation requirements have been received from the surface managing agency. The Forest Service is required to respond favorably or to object to leasing requests from the authorized officer of BLM, based on Forest management plans. The information in these plans is available to the public. The public also may request information from the U.S. Forest Service directly.

One comment suggested that the final rulemaking combine the proposed § 3101.7-1(a) and (b) into one paragraph and expressed the view that the criteria for agency consent for leasing public domain and acquired lands minerals now appear to be the same. This recommendation has not been adopted in the final rulemaking, because new paragraph (c) in the final rulemaking has added further clarification. Accordingly, the applicability of these regulations to

agencies other than the Forest Service, with respect to recommendations to lease public domain minerals, also is clarified.

Several comments recommended that surface managing agency consent and stipulations submitted to the Bureau for sale parcels should be binding on the surface managing agency for the 2-year noncompetitive period as well. The comments expressed the view that such a requirement would eliminate repeated reviews of leasing proposals by the surface managing agency during this brief period when surface conditions likely would not change. This recommendation has not been adopted by the final rulemaking because changing environmental conditions may require modification of stipulations and/or reaffirmation of the consent to lease at some later time within the 2-year period prior to the issuance of a noncompetitive lease. Moreover, the Bureau cannot impose such a binding requirement on any other surface managing agency. In practice, however, a change in consent or stipulations is not likely to occur immediately after a lease sale.

Section 3101.7-2 Action by the Bureau of Land Management.

This section received only a few comments. One comment suggested that this section should more clearly reflect the role of Bureau of Land Management in the leasing of National Forest System lands in light of the expanded role provided the Forest Service in the Reform Act. Another comment suggested that the Bureau should not be involved in the management of Forest Service lands. The Bureau cannot abrogate its legal responsibility for the final discretionary authority for issuance of leases. The comments have not been adopted in the final rulemaking.

Section 3101.7-3 Appeals.

Several of the comments received on this section of the proposed rulemaking supported the process of appealing decisions of the surface managing agency directly to that agency (particularly with respect to the U.S. Forest Service) for decisions made by that agency objecting to leasing, refusing to lease, or consenting to leasing only with stipulations. However, some comments expressed the view that appeals should be handled cooperatively between the Department of the Interior and the Forest Service, or that only one agency should be designated to handle appeals to avoid dual appeal processes or the "stacking" of appeals first to the Forest Service and then to the Interior Board of Land

Appeals. One comment suggested that the final rulemaking clarify which appeals are required to be made to the Forest Service. After consideration of all of the comments, the section is amended in the final rulemaking to clarify those instances when appeals are properly made to the surface managing agency.

Section 3101.8 State's or charitable organization's ownership of surface overlying federally-owned minerals.

One comment objected to the 30-day period allowed State or charitable organizations to formulate stipulations under this section of the proposed rulemaking. In response to this comment, this section in the final rulemaking has been modified to bring it into conformance with the coordination procedures used for lands under the jurisdiction of a surface managing agency other than the Bureau.

Section 3102.1 Who may hold leases.

One comment suggested that § 3102.1(b) of the proposed rulemaking unnecessarily repeats the information contained in § 3102.5-1. The comment expressed the view that the purpose of § 3102.1 has always been to furnish a qualifications listing of those persons or entities who are authorized to hold leases in accordance with section 1 of the Mineral Leasing Act, and that paragraph (b) of the proposed rulemaking does not fall within this category. The comment is adopted in the final rulemaking and paragraph (b) has been removed.

Section 3102.4 Signature.

One comment noted that this section of the existing regulations should be amended to remove reference to former Subpart 3112. The final rulemaking published in the *Federal Register* on May 16, 1988 (53 FR 17340), made this revision.

Section 3102.5-1 Compliance.

A large number of comments were received on this section of the proposed rulemaking. A few comments expressed concern that companies, associations, partnerships, etc., could not be responsible for all of their partners' or potential partners' actions in complying with the requirements of this section, and, consequently, would be faced with cancellation of leases if a violation occurred. The statute itself establishes the requirement. To be in compliance with section 1 of the Mineral Leasing Act (30 U.S.C. 181), it is necessary that all associations of companies, individuals, etc., ensure that their members are complying with the requirements of the law. The

introductory paragraph of § 3102.5-1 of the proposed rulemaking has been adopted without change.

Another comment on this section suggested that the final rulemaking add a provision to allow the authorized officer to request information relative to compliance at any time. This suggestion has not been adopted because the Bureau of Land Management has the authority to require this information when necessary under § 3102.5-3 of the final rulemaking published on May 16, 1988 (53 FR 17340).

One comment suggested § 3102.5-1 of the final rulemaking should include the provision that submission of an offer to lease or a request for approval of an assignment constitutes certification of compliance with the regulations. This provision is included in § 3102.5-2 in the final rulemaking published on May 16, 1988 (53 FR 17340). Therefore, no change is necessary in this final rulemaking.

Several comments requested that § 3102.5-1(e) be modified to indicate that a party is determined to be in noncompliance with the Reform Act beginning on the date of the final decision of imposition of a civil penalty. As discussed earlier in this preamble at § 3000.9, the interpretation of section 41 of the Act is required to be made by the Department of Justice. Section 3102.5-1(e) is adopted in the final rulemaking without amendment.

Several comments suggested that a definition of "control" be added in § 3102.5-1(f) of the final rulemaking. These comments have merit and the final rulemaking adds a cross-reference to the definition contained in § 3400.0-5(rr) of the existing regulations. This definition, promulgated to comply with the section 2(a)(2)(A) requirements of the Federal Coal Leasing Amendments Act, 30 U.S.C. 201(a)(2)(A), meets the requirements of section 5102(d) of the Reform Act as well.

A number of comments on § 3102.5-1(f) of the proposed rulemaking questioned cancellation of a lease while an administrative or judicial appeal is pending. Since there also is an appeal provision in conjunction with a lease cancellation decision, no change has been made in the final rulemaking. Notwithstanding the concerns expressed in several comments that there may be a genuine dispute concerning either the adequacy of the reclamation performed or the civil penalty imposed, as well as a potential for invalidation of leases or transfers entered into subsequent to the failure or refusal to perform reclamation work properly, these measures are necessary to ensure compliance with section 17(g) of the Mineral Leasing Act,

and disputes can be resolved upon appeal of the cancellation.

Several comments expressed concern that the beginning of the noncompliance period for section 17(g) of the Act, as stated in § 3102.5-1(f) of the proposed rulemaking, could be interpreted as being at two different times. The final rulemaking has been amended to indicate that noncompliance shall begin on whichever date occurs first, either the date of imposition of a civil penalty or the date of attachment of a bond and that noncompliance shall end when the United States has been reimbursed for all costs incurred as a result of the specific infraction.

In response to several comments, a new § 3102.5-1(g) is added in the final rulemaking to provide a cross-reference to redesignated § 3106.1(b) of the final rulemaking, which specifies that signature on a request for approval of a record title assignment of less than 640 acres outside of Alaska (2,560 acres within Alaska) shall certify that the assignment would further the development of oil and gas. However, the Bureau may request further evidence of compliance with the provision of the Reform Act.

Section 3102.6 Agents.

Several comments on this section of the proposed rulemaking recommended that it be either clarified or removed. Most of the comments stated that it was not advantageous to corporations or entities to execute special agency agreements solely for persons attending and bidding at lease sales who assist and execute documents on behalf of a firm. One comment felt this section of the proposed rulemaking constituted a Government intrusion into the conduct of business of the private sector. This section has been removed in the final rulemaking. Section 3102.5-3 of the final rulemaking published on May 16, 1988, gives the Bureau sufficient authority to request further evidence and to review any necessary documents to determine compliance.

Section 3103.1-1 Form of remittance.

Several comments requested that this section of the final rulemaking include sight drafts. U.S. Department of the Treasury requirements prohibit the acceptance of sight drafts by any Federal agency for payments of obligations. Therefore, the final rulemaking does not include sight drafts as a form of remittance.

Several comments were received concerning the use of credit cards since no provisions for such are currently in place. The Government presently is negotiating the provisions that would in

the future allow the use of credit cards for receipt of payments. The final rulemaking would allow the use of this type of payment when it is authorized and specific procedures have been developed and announced to the public.

Two comments on this section of the proposed rulemaking addressed the fact that cash was not included as an acceptable form of remittance in the proposed rulemaking. The final rulemaking does not allow remittance of cash because it is administratively difficult to monitor and handle for security reasons, particularly at competitive sales.

A few comments requested that the Bureau of Land Management be more flexible with regard to the required description of "payable to" on remittances to avoid frivolous lawsuits on technical grounds. The rulemaking identifies the correct payee name to be used for all remittances. However, any remittances made out to "BLM," "DOI," or "Bureau of Land Management" are accepted as payment and no problems have been encountered.

Section 3103.2-1 Rental requirements.

One comment on this section of the proposed rulemaking suggested that the statement in the preamble of the proposed rulemaking that the requirement that nominations and bids be accompanied by the first year's rental to ensure "serious" bids was unlikely to have any bearing on how serious bids are apt to be and, in fact, might diminish ultimate revenues available for bidding. The final rulemaking has not been changed because submission of these moneys is a measure of bidder intent, and a nomination or bid must be accompanied by the rental to allow prompt lease issuance.

Several comments suggested that allowing only 10 calendar days for curing a deficient rental in § 3103.2-1(b) of the proposed rulemaking was too short and unreasonable. One comment pointed out that the proposed rule language did not specify that the 10-calendar day period does not begin until receipt by the applicant of a notice of the deficiency. This section of the final rulemaking is amended to clarify the provision and to allow 15 calendar days from receipt of a deficiency notice.

Another comment on § 3103.2-1(b) suggested that the Bureau allow correction of errors made "in good faith." Aside from the judgmental factors involved and the creation of undue dispute, not all types of defects can be considered curable with no loss of priority, but instead must be treated on a case-by-case basis. The final

rulemaking has not been amended to include this suggestion.

Several comments suggested that § 3103.2-1 of the proposed rulemaking be revised to require rental on a net acre basis instead of a gross acre basis. Section 3103.2-1(c) of the existing regulations, which was not a part of the proposed rulemaking and has been in existence for many years, requires that rentals not be prorated for undivided fractional interest lands but be payable for the full acreage in such lands. The Government charges the rental for the acreage in which it owns an interest, whether it be the entire interest or less. The comments have been considered, but no change has been made in the final rulemaking. Moreover, because of the wide variation in the fractional interest that may be held in certain lands and the difficulty of administering leases with varying mineral interest lands, it is necessary to require rental on the full acreage.

Section 3103.2-2 Annual rental payments.

One comment recommended the § 3103.2-2(i) of the existing regulations be retained in the final rulemaking. Retention of this section is not necessary because the final rulemaking provides for rental provisions "as stated in the lease". The recommendation is not adopted in the final rulemaking. Another comment suggested that the final rulemaking specify in § 3103.2-2 that rentals should not be increased for leases extended beyond their fifth year by drilling or production. Since the Reform Act requires that the rental shall not be less than \$2 after the fifth year, this suggestion has not been adopted in the final rulemaking.

A few comments on § 3103.2-2(b) of the proposed rulemaking suggested that, to comply with the law, the phrase "application" as well as "offer" be included in this section and that it be reformatted in the same manner as paragraph (a) of the section to make it clearer. These suggestions have been adopted in the final rulemaking with regard to those leases "grandfathered" by the Reform Act.

Several comments were received on § 3103.2-2(b)(1) of the proposed rulemaking. One comment expressed strong concern that this section would double the annual rental rate beginning in the sixth year for leases issued under former Subpart 3112 because the final rulemaking was viewed to end the rental rate reduction from \$3 to \$1 per acre previously granted by the Secretary of the Interior. The comment was concerned that this increase would

discourage exploration. Because the proposed rulemaking merely applies the rental rate set by the Reform Act to leases issued under former Subpart 3112 (and would lower the present regulated rate from \$3 to \$2 per acre), this comment has not been adopted by the final rulemaking. The Secretary of the Interior would continue to have the authority and discretion to grant a rental rate reduction in accordance with section 39 of the Mineral Leasing Act.

Another comment on § 3103.2-2(b)(1) of the proposed rulemaking suggested that the date cited should be changed to that date when the rental increase provision actually will become effective because of the Secretary's granting a rental reduction until February 1, 1989. In response to this comment, the final rulemaking specifies the date that leases issued under former Subpart 3112 after February 19, 1982, become subject to the annual rental increase in the sixth and subsequent lease years of \$2 per acre or fraction thereof.

A few comments on § 3103.2-2(b)(2) of the proposed rulemaking suggested removing the known geological structure and favorable petroleum geological province terminology. No change has been made in the final rulemaking because these two terms must continue to be recognized for all leases issued in accordance with the regulations in effect on or before December 22, 1987.

Several comments were received on § 3103.2-2(c) of the proposed rulemaking. The comments questioned the payment both of annual rental and royalty on leases assessed compensatory royalty. Most of the comments argued that the 1959 Solicitor's Opinion is in error since the compensatory royalties compensate the Department of the Interior as if the production has occurred. The comments also suggested that such double charges are inequitable and could result in termination of the lease. The Department has reviewed the issues raised by the comments. However, based on the Solicitor's Opinion, which remains in force, it is clear that both rental and royalty are due in this situation. Rental is due until a discovery is made on the lease. By paying compensatory royalty in lieu of drilling, the lessee in effect has also opted to continue rental payments. The final rulemaking makes no change in this provision.

One comment received on § 3103.2-2(d) of the proposed rulemaking pointed out a discrepancy between this section and § 3103.2-3 of the existing regulations. This suggestion has been adopted and § 3103.2-2(d) of the final rulemaking has been modified to

indicate that the \$5 rental rate is due beginning with the termination date of the lease. Section 3103.2-2(e) also has been modified in the final rulemaking to clarify when the \$10 annual rental rate is required for reinstated competitive leases.

Section 3103.3-1 Royalty on production.

Numerous comments were received on this section of the proposed rulemaking. The majority of comments supported the 12½ percent fixed royalty rate in § 3103.3-1(a)(1), expressing the view that this flat rate would promote drilling on marginal lands, generate higher bonus bids, and would be easier to administer.

Some of the comments, however, pointed out that Congress did not alter the competitive royalty rate when it enacted the Reform Act. Since 1920, section 17 of the Mineral Leasing Act has provided that the royalty rate for competitive oil and gas leases shall be "not less than 12½ percent." Some of the comments suggested that this discretionary provision must be implemented today as it was in the past; that is, that the discretion is illusory. This provision of the law has been implemented in the past by delegating to the authorized officer the discretion to prescribe the royalty rate in the Notice of Competitive Lease Sale. While the Bureau's authorized officers in the past have prescribed a Bureau standard form rate schedule based on the rate of production, the existing oil and gas leasing regulations have not required this. The competitive oil and gas royalty rate has been interpreted in the same manner as the coal royalty rate in section 7(a) of the Act as added by the Federal Coal Leasing Amendments Act, that is, while the royalty rate cannot be lower than 12½ percent, it does not, by law, have to be higher.

A review of recent revenues from producing oil and gas leases indicates that approximately 12 percent of the producing lease accounts (3,114 of 24,109) administered by the Minerals Management Service are variable royalty rate leases. The impact of the variable royalty leases, however, is insignificant because, in calendar year 1987, of almost \$1 billion in royalty revenues received from leases only \$5,528,658 was derived from the portion of royalty above 12½ percent from those leases with a variable royalty rate schedule. This is much less than 1 percent of the royalty revenues received. Since 50 percent of the lease revenues go to the States, and 40 percent goes to the Reclamation Fund, only \$552,865 from royalty revenues remains for the

Government to administer the inspection program for all Federal leases and to determine whether well production figures are being properly allocated. The flat rate simplifies this complex task. In addition, higher royalty rates on competitive leases may direct more activity toward the noncompetitive leasing program in which leases, by statute, have a primary term of 10 years with a fixed 12½ percent royalty rate. The Reform Act's deemphasis of the noncompetitive leasing program through increased incentives in competitive leasing activity is preferable and in the public interest in accordance with the provisions of the Reform Act.

The Bureau is mindful of the comments expressing concern with the adoption in this final rulemaking of a fixed royalty rate of 12½ percent and will continue to study this matter. Various suggestions that have been made and may be considered for future use by the Bureau include rate differentials based on the existence or level of production within a geographic area, or a different flat rate royalty such as a 16⅓ percent royalty in lieu of the 12½ percent royalty rate. The Department of the Interior will continue to consider alternatives from all sources. In the course of considering any further change in the regulations with respect to the royalty rates, public comment will be sought.

Several comments on § 3103.3-1(a) (2) and (3) of the proposed rulemaking expressed the view that the royalty rate should not be increased when leases are reinstated. The Mineral Leasing Act requires increased royalty for leases reinstated under the Class II procedures. The Interior Board of Land Appeals has held that Congress intended a penalty provision to apply to reinstated leases. The final rulemaking adopts the proposed language with no change.

A number of comments noted the typographical error in § 3103.3-1(b) of the proposed rulemaking. The final rulemaking corrects the word "quality" to read "qualify."

Section 3103.3-2 Minimum royalties.

Several comments were received on this section of the proposed rulemaking. One comment suggested retaining the language of the existing regulation at the end of paragraph (a) that requires payment of the difference if the actual royalty paid during any year is less than \$1 per acre. The final rulemaking clearly specifies under paragraph (a)(1) that a minimum of \$1 per acre is payable. In addition, the lease terms contain this language. No change has been made and the final rulemaking is adopted as

proposed. A few comments suggested that the final rulemaking should specify that the lessee receive notification from the authorized officer that the lease is subject to minimum royalty. Royalty is paid to the Minerals Management Service, and it determines whether sufficient royalties are paid to meet the minimum royalty due. The final rulemaking adopts the proposed rulemaking with no change.

Section 3104.1 Bond obligations.

Several comments were received on this section. Some of the comments suggested that the time for requiring bond coverage should not be limited to the commencement of surface disturbing activities related to drilling, but should start at the beginning of any surface disturbing activities. A few of the comments indicated that any surface disturbing activities related to any aspects of lease development should require bonding. The first sentence of § 3104.1(a) of the proposed rulemaking revised the existing regulation to change the time when a bond is required: From the commencement of surface disturbing activities related to drilling operations rather than from the commencement of drilling operations. Lease operations are conducted in accordance with the operations and surface use activities contained in the approved Application for Permit to Drill. The language of the proposed rulemaking, which is adopted in the final rulemaking, will ensure that any surface disturbing activities requiring reclamation will be bonded. No entity may undertake any surface disturbance requiring reclamation, such as road construction, without an approved permit to drill. Building roads on Federal surface without approval would result in trespass proceedings. No change is made in this section of the final rulemaking.

Another comment on § 3104.1(a) of the proposed rulemaking recommended that holders of operating rights (sublessees) be removed as parties who may furnish bonding coverage since the current Bureau of Land Management adjudication procedures for handling operating rights transfer approvals would make it difficult to accept bonds from those parties without extensive title review. No change is made in the final rulemaking since any party furnishing bond coverage has the burden and responsibility to the Bureau for the lease activities being conducted.

One comment on § 3104.1(c) of the proposed rulemaking questioned the elimination of the acceptance of cash for a personal bond. Cash is eliminated as an acceptable personal bond because of guidelines from the Federal Reserve

Board as well as Bureau field office concerns about security problems in accepting and handling large sums of cash. Potential obligors should be capable of converting cash easily into either a cashier's or certified check or a certificate of deposit, all of which are acceptable forms of personal bonding.

Several comments commended the proposed expansion of types of acceptable personal bonds in § 3104.1(c) to include certificates of deposit and letters of credit. One comment indicated that this provision would greatly assist operators in obtaining the guarantees needed for reclamation work required for disturbed areas. A few comments were adverse to the acceptance of letters of credit and expressed the view that such letters of credit would be inadequate to ensure that the Bureau would be able to recover damages after the expiration of any fixed term of the letter of credit. The comments suggested that the specific term of a letter of credit could easily result in inadequate coverage after the term expired and would be difficult to manage. However, other Federal agencies accept letters of credit without difficulties. Accordingly, in the final rulemaking letters of credit are an acceptable form of security for a personal bond.

Another comment recommended that only letters of credit with an indefinite term be considered acceptable to accommodate leases that become indefinite in duration upon completion of a producing well. The final rulemaking is modified to require that letters of credit shall include language requiring automatic renewal for one-year periods in the absence of specific notice to the proper BLM office at least 90 days prior to the expiration date of the letter of credit or prior to the intent not to renew. Other changes adopted in this section of the final rulemaking make it consistent with that contained in 30 CFR 800.21(b), which contains requirements used by the Office of Surface Mining for letters of credit. A final comment recommended that letters of credit should be issued by Federally insured institutions in the same manner as certificates of deposit. This suggestion has been adopted in the final rulemaking.

One comment received on § 3104.1 of the proposed rulemaking expressed concern that operators may be required to furnish bonds to both the Bureau of Land Management and the Forest Service for the same lease obligation. The commenter requested that the Bureau and Forest Service provide a means whereby a single statewide or nationwide bond would cover

compliance with all lease terms and the reclamation requirements of both surface agencies. The Department of the Interior is committed to not requiring duplicate bonding coverage whenever possible, and will coordinate with the Department of Agriculture in implementing each agency's respective responsibilities under the Reform Act. The Bureau of Land Management will continue to be the official office of record for accepting and maintaining bonds associated with Federal oil and gas leases and operations thereon. The Bureau, in accordance with the interagency agreement with the Forest Service, also would consider any Forest Service recommendations to increase bond coverage as may be required by § 3104.5. Final determination as to the method by which the Secretary of Agriculture implements his/her responsibilities under the Reform Act, however, will be made by that Secretary. Accordingly, no change has been made in the final rulemaking.

Another comment on § 3104.1 of the proposed rulemaking requested that the final rulemaking implement the Bureau of Land Management Director's Task Force recommendation that "piggybacking" of Federal and State bond requirements be permitted in order to preclude unnecessary duplicate coverage for reclamation requirements. The final rulemaking provides the minimum requirements acceptable to the Department of the Interior. Any implementation of the concept of allowing coverage for both Federal and State concerns related to development of oil and gas leases can be addressed only through individual agreements between the Bureau and the State concerned. The Bureau would favor such alternate bonding proposals for any State that would desire to pursue such arrangements, provided that both parties needs are met, but cannot make such commitments at this time.

For consistency with the bonding provisions contained in § 3104.1(a), the bonding requirements for geothermal resources leasing contained in § 3206.1-1 also are amended in this final rulemaking.

Section 3104.2 Lease bond.

Two comments received on § 3104.2 of the proposed rulemaking recommended that holders of operating rights (sublessees) be eliminated as parties who may furnish lease bonds. No change is made in the final rulemaking since the party furnishing bond coverage has the responsibility for activities related to lease development and

reclamation, and a holder of operating rights may be such a party.

A few comments on this section also requested that the final rulemaking add specific provisions to allow phased release of bonds when reclamation has progressed to a point where continuation of the full bond amount is no longer necessary. Since current Bureau policy allows phased release of bonds in the manner recommended no amendment is needed in the final rulemaking. Nothing in the rulemaking prohibits reducing bond amounts through a phased release as special conditions may warrant.

One comment suggested that § 3104.2 be modified to require attachment of any operator's bond before attaching a lessee's bond. This recommendation is not adopted in the final rulemaking since a default in performing any lease obligation must leave the Government in a position to pursue all possible options to remedy the situation. Lessees remain free to pursue other civil remedies against non-performing operators.

A few comments requested that the last sentence of § 3104.2 of the proposed rulemaking be clarified to specify what documentation is required in order for an operator to use a lessee's or sublessee's bond. This suggestion is adopted and the final rulemaking has been clarified. The specific documentation usually required is a consent from the surety to include the operator under the coverage of the lessee's or sublessee's bond.

Section 3104.4 Unit operator's bond.

Two comments on this section of the proposed rulemaking suggested elimination of the duplication of § 3104.4 and Subpart 3184. This suggestion has been adopted in the final rulemaking by the removal of Subpart 3184. Two comments recommended revisions to simplify and clarify the language in § 3104.4. In response to these comments, the final rulemaking revises this section and removes § 3184.1. For consistency, the final rulemaking also removes § 3184.1 concerning geothermal resources unit bonds, and adds a new § 3206.6 containing revised language consistent with the provisions in amended § 3104.4.

Section 3104.5 Increased amount of bonds.

Several comments on § 3104.5(a) of the proposed rulemaking expressed concern that requiring a bond in the full amount of the estimated costs of plugging the well and reclaiming the involved disturbed area, if any demand for payment has occurred within the past 5 years, is too stringent. Another

comment suggested that increasing bond levels to an adequate amount only after an operator has failed to fulfill lease obligations is not a responsible Bureau practice. Some comments recommended that the 5-year period should be prospective and not retrospective to events preceding this rulemaking, and that the authorized officer should have the discretion not to increase the bond amount. The Reform Act requires the Secretary of the Interior to ensure that adequate bond coverage is provided. An operator's refusal to plug a well or reclaim the surface is a serious breach of the regulations that casts doubt on the integrity of that operator. Therefore, in such circumstances a very firm uniform national policy is appropriate.

Another comment on this section of the proposed rulemaking suggested that the bond coverage for full reclamation be required in all cases. The Reform Act does not require such a bond, but does require the Secretary to ensure that bonding is adequate. The regulation language accomplishes the requirement of the law and the proposed rulemaking is adopted with only minor technical changes.

Two comments on this section also recommended that the authorized officer be able to increase bonding for any actions other than an Application for Permit to Drill. Section 3104.5(b) provides this authority.

Some of the comments received on § 3104.5(b) of the proposed rulemaking noted that a notice received from the Minerals Management Service that there may be uncollected royalties due would be grounds for the bond amount to be increased even if such a notice is later determined to be incorrect with no final determination occurring. The Bureau agrees with these comments, and the final rulemaking is modified to indicate that such a notice from the Service must have determined that uncollected royalties are due prior to requiring any increased bond amount for such infraction.

Several comments on § 3104.5 expressed the view that the provisions of this section should not be applied during the pendency of an appeal. The payment under a bond would not be required until a decision is rendered under any administrative appeal taken and when all such appeal rights have also been exhausted. The Bureau would not expect payments to be made prior to that time.

Section 3106.1 Transfers, general.

Numerous comments were received on § 3106.1 concerning approval of assignments and transfers. Many of the comments addressed the first two

sentences of § 3106.1(a) of the proposed rulemaking. Many comments raised the point that the proposed rulemaking did not provide for discretionary approval of record title assignments for separate zones or parts of legal subdivisions. The Bureau's experience with these types of assignments is that they are never approved. In order to avoid implying that these types of assignments may be approved, the final rulemaking specifies that the Secretary is exercising his or her discretionary authority, under the statute and this rulemaking, to disapprove such record title assignments. The option for lessees to execute transfers of non-record title interests is unaffected and is believed sufficient for the conduct of business.

The language in § 3106.1(a) of the proposed rulemaking was incorrect as to the difference between the terms "transfer," "assignment," and "sublease." Transfers include both assignments and subleases. An assignment refers only to a transfer of record title interest, and a sublease refers to a transfer of operating rights interests. The definition of the term "transfer" in § 3100.0-5(e) of the final rulemaking published on May 16, 1988 (53 FR 17340), clarifies use of these terms. The approval requirements in § 3106.1(a) of this rulemaking relate to assignments of separate zones or deposits and parts of legal subdivisions, not to subleases. Subleases of operating rights interests may be disapproved only for lack of bonding or qualifications of transferees.

A few commenters expressed the view that the intent of the Reform Act allowing the Secretary discretion to disapprove assignments of less than 640 acres (2,560 acres in Alaska) was to eliminate the activities of "forty-acre merchants" who subdivide leases with no intent to develop. The commenters felt that the discretionary authority should be exercised in such a way as not to unduly inconvenience legitimate operators when assignments resulting from farmouts, spacing unit restrictions, options, etc., would further development. One comment suggested that the authorized officer should normally assume that the assignment was legitimate and would further the development of oil and gas, absent evidence to the contrary. This suggestion has been adopted in the final rulemaking with creation of a new paragraph (b), which establishes that execution and submission of the request for approval of an assignment will certify that the assignment will further the development of oil and gas. In addition, in accordance with the

provisions in § 3102.5-3 of the May 16, 1988, final rulemaking, the authorized officer may require additional information and statements, from both the assignor and assignee, where there is any question whether the assignment will further the development of oil and gas.

Some of the comments suggested that the standards that would constitute "to further the development of oil and gas" be specified in the final rulemaking, if only by example. Another comment took an opposite position, recommending broad discretion on the part of the authorized officer. Given inclusion in the final rulemaking of the provision for self-certification that assignment will lead to development, described above, and recognizing the wide variety of legitimate reasons for making assignments, it has been determined that the purposes of the Act could be best carried out by leaving unspecified the standards that would be applied to determine whether a particular assignment would further development. This will afford the authorized officer the greatest latitude for approval of assignments.

Many comments suggested that the final rulemaking include a specific requirement, echoing the Reform Act, that, except when the assignment is determined not to be in accordance with applicable law, approval of the assignment be required within 60 days of receipt of the request for approval. This suggestion is not adopted in the final rulemaking. The requirement is specified in the Act, and no purpose would be served by repeating the requirement in rulemaking. The Bureau of Land Management State Offices are committed to act in a timely manner on all assignments and transfers in accordance with this requirement of the Reform Act.

Sections 3107.2-2 Cessation of production.

A number of comments were received on § 3107.2-2 concerning the additional language added in the proposed rulemaking to clarify the 60-day period for reworking a well upon cessation of production. Most of the comments expressed the view that the added language would eliminate uncertainty and misinterpretation. A few comments, however, requested that the authorized officer be allowed discretion to waive the 60-day period. The Mineral Leasing Act (30 U.S.C. 226(i)) requires the 60-day period. The final rulemaking, therefore, has adopted the language of the proposed rulemaking without change

Section 3107.2-3 Leases capable of production.

Several comments received on § 3107.2-3 of the proposed rulemaking suggested that the final rulemaking be amended to provide discretion to the authorized officer due to the current depressed price of oil. An application for a suspension of production and/or operations is the appropriate vehicle for seeking relief in these situations. Another comment on this section expressed the view that a lease capable of production should not terminate due to a failure to produce from a shut-in well. This would be true unless the authorized officer orders the lease into production. Accordingly, the proposed rulemaking is adopted without change.

Section 3107.7 Exchange leases—20-year term.

Section 3107.8 Renewal leases.

Several comments expressed concern that the proposed rulemaking required a greater obligation by applicants for exchange and renewal leases under §§ 3107.7, 3107.8-1(a) and 3107.8-3(a) to show compliance with reclamation requirements than is required under § 3102.5-1(f). The comments suggested that reference to certification of compliance under § 3102.5-1 sufficiently includes compliance with reclamation standards. The final rulemaking adopts this suggestion.

A few comments suggested removal from § 3107.8-1(a) of the final rulemaking of the requirement that sublessees be required to join in applications for renewals of leases, because ownership of operating rights is no longer adjudicated as part of the Bureau's approval process. This suggestion is valid and the requirement has been removed in the final rulemaking.

Several comments objected to the requirement in § 3107.8-1(a) of the proposed rulemaking for applicants seeking renewal of a lease to show that all moneys due to the United States have been paid. This requirement does not represent any change from the requirement contained in the existing regulations. Such a showing by applicants has been routinely made in the application by including a statement that all moneys due have been paid. This requirement has not presented any problem to date and has been routinely complied with by those holding rights to renewal leases. Accordingly, no change is made in the final rulemaking.

Section 3108.1 Relinquishments.

Several comments received on this section of the proposed rulemaking

requested clarification of the use of the term "suspension." While this term remains unchanged from that contained in the existing regulations, a technical amendment is made in this section of the final rulemaking to clarify that a suspension relates to an authorized shut-in of a well.

Section 3108.3 Cancellation.

One comment received on § 3108.3(a) of the proposed rulemaking objected to the provision allowing cancellation of a nonproducing lease for failure to comply with any provisions of the law, indicating that such notice would be insufficient. This comment has not been adopted in the final rulemaking since this provision is consistent with the language of the Mineral Leasing Act, both prior to and subsequent to the enactment of the Reform Act. The proposed rulemaking spells out the specific requirements of the law that had previously been incorporated only by reference in § 3108.3(a) of the existing regulations. Paragraph (a) of this section is adopted with only a technical change to refer specifically to section 31(b) of the Mineral Leasing Act.

Another comment on this section contended that the proposed revision broadened the powers of the Bureau for cancellation by court proceedings of a lease without a productive well. The distinction between administrative and judicial cancellation prior to enactment of the Reform Act was based on whether the leased lands were known to contain valuable deposits of oil or gas. The Reform Act changed the provision to make no distinction concerning whether a lease contains a well capable of production. The statutory language in the Reform Act encompasses both actual and allocated production by providing protection to communized and unitized leases. The comment is not adopted in the final rulemaking since the Reform Act clearly changes the requirements for administrative cancellation. As a practical matter, any cancellation proceeding will generate the due process rights for any affected lessee to appeal to the Interior Board of Land Appeals and subsequent judicial review. Thus, no lease cancellation would become final without judicial review so long as the lessee pursues his or her rights.

Another comment on this section of the proposed rulemaking objected that a lease may be subject to cancellation if a partner or co-lessee has acquired an interest in the lease in violation of section 17(g) of the Mineral Leasing Act, which prohibits issuance of a lease or approval of a lease assignment to any

party not in compliance with the reclamation requirements after due notice. Section 3102.5-1 clearly meets the intent of the Reform Act to prevent improper acquisition of lease interests by a party through lease issuance, assignment, or sublease in violation of reclamation requirements. However, the lease interest of an innocent co-lessee in such a situation would not be subject to cancellation. The final rulemaking does not adopt this comment.

As a result of the Bureau's review of the comments on § 3108.3, and a review of the language of the proposed rulemaking and the cancellation provisions of the law, it has been determined that the proposed rulemaking did not clearly implement the Secretary of the Interior's oil and gas lease cancellation authority. The final rulemaking has, therefore, been revised by adding a separate paragraph setting out the administrative cancellation authority in section 31(b) of the Mineral Leasing Act (30 U.S.C. 188(b)), as amended by the Reform Act, for breach of the lease, another paragraph setting out the judicial cancellation authority in section 31(a) of that Act (30 U.S.C. 188(a)), for breach of the lease, and a separate paragraph setting out the judicial cancellation and divestiture authority in section 27(h)(1) of that Act (30 U.S.C. 184(h)(1)), for interests held in violation of the Act.

Section 3109.2 Units of the National Park System.

A comment requested a technical change in this section of the existing regulations to revise the terminology relating to leasing requirements in National Park areas in order to be consistent with the amendments made in § 3100.0-3(g)(4) and those previously made in § 3100.0-3 (a)(2) and (b)(2) of the final rulemaking of May 16, 1988 (53 FR 17340). This suggestion is adopted in the final rulemaking.

Part 3110—Noncompetitive Leases

Section 3110.1 Lands available for noncompetitive offer and lease.

Section 3110.2 Priority.

Many comments were received on §§ 3110.1 and 3110.2 of the proposed rulemaking. The comments addressed three primary issues: Whether a noncompetitive offer can be filed prior to a competitive sale and retain priority in the event the parcel is not competitively sold; the nature of the postsale noncompetitive process; and the period, if any, during which offers are considered simultaneously filed after the competitive process.

Comments were received on all sides of these questions and represented a broad spectrum of opinion regarding the nature of the noncompetitive process under the Reform Act. One group of comments emphasized the postsale simultaneous aspect; another group emphasized the desire for presale noncompetitive filings leading to a priority standing that could be maintained in the event the parcel is not sold competitively; and a third group emphasized the pre-eminence of the competitive program over the noncompetitive leasing process. A few comments strongly supported presale parcel priority, and an almost equal number of comments opposed it. Numerous comments addressed the length of the "simultaneous" filing period following the competitive offering. Several comments wanted one day, and an equal number of comments requested a period from 10 to 30 days, and others expressed a desire for 5 days. In addition, there were a few comments that suggested elimination of the postsale noncompetitive process altogether, recommending the substitution of either another competitive sale using noncompetitive lease terms or the recycling of any parcels which received multiple noncompetitive offers directly back into the competitive system. One comment suggested a return to the former automated simultaneous oil and gas leasing system, the lottery.

Several comments concerned the posting of results of noncompetitive offers, an issue that also is pertinent to the nature of the postsale process. Some comments requested that results be posted, but others suggested that results not be posted. The issues raised by many of these comments can be resolved by looking at the intent of the legislation. Clearly the legislation is designed to emphasize the competitive process. In fact, the Congress has confirmed this emphasis and restated its desire to depart from the former simultaneous leasing process and to de-emphasize noncompetitive leasing. The Bureau is persuaded by the test sales, and the comments that have been received, that the competitive oral auction is an efficient and desirable method of leasing the public's onshore oil and gas resources.

The legislation also is clearly designed to provide a noncompetitive reward for risk-taking in frontier areas. This concept rewards exploration activity rather than rewarding success at a game of chance.

To the extent that the noncompetitive choices are between a simultaneous

program based on chance that only rewards speculation and a program that rewards risk-taking based on exploration, it is clear that the intent of the legislation is toward the latter. It is vital, also, to recognize that the former simultaneous leasing process was not a creation of Congress, and that the former process was not confirmed in any way by the Reform Act. Rather, the simultaneous process had been instituted solely by regulation and was conducted for administrative convenience due to conditions that existed in the late 1950's. It is the intent of the Bureau that the regulations implementing the Reform Act follow these guidelines: emphasis on competitive rather than noncompetitive leasing, and emphasis on a noncompetitive reward for risk-taking in frontier areas rather than risk-taking in a game of chance.

The Bureau of Land Management has taken certain steps in § 3110.2 of the final rulemaking to minimize the role of postsale simultaneous filings, and particularly to deinstitutionalize the process. First, a period of a single day is specified, immediately following the end of the competitive process, in which offers will be considered simultaneously filed. Since business and office hours vary somewhat from Bureau office to office, the times of day will be specified in each Notice of Competitive Lease Sale or List of Lands Available for Competitive Nomination. In furtherance of the idea that the simultaneous period is not special, relative to the following or subsequent days after this single day, but rather is simply a period in which many offers are expected, the Bureau has made a deliberate decision to not publish and provide results for that period.

In response to numerous comments, the Bureau has amended the final rulemaking in § 3110.2(a) to provide that offers received after the one-day simultaneous period shall be prioritized as of the time received, rather than as of the day received. This system predates the former simultaneous system, has always been used for previous over-the-counter offers, and is the Bureau's normal practice of doing business. As such, the provisions do not provide any special status to any class of noncompetitive offer.

Several comments expressed the view that the Bureau should maintain the proscription in former Subpart 3112 against multiple filings for the same parcel by the same individual or individuals with a common interest. The proposed rulemaking was silent on this matter. The final rulemaking also is

intentionally silent. Enforcement of the proscription was one of the hallmarks of the former simultaneous program, and because of its complexities, proved to be a major source of litigation and a great drain on public resources. The Reform Act was intended to remove the more valuable lands from the noncompetitive arena, thereby leaving far less concern regarding multiple filings. Because circumstances have changed, the Bureau is no longer persuaded that costly enforcement of the multiple-filing rules is in the public interest.

All noncompetitive offers, whether filed before or after the competitive offering, have the same requirements, including the same terms, configuration, acreage requirements, and costs, that is, submission with the offer of the first year's rental of \$1.50 per acre and a nonrefundable \$75 filing fee. The final rulemaking continues the 10,240-acre maximum limit, a ten-year term, and other configuration requirements contained in § 3110.3-3. If the lands are sold competitively, competitive lease terms will apply, with the noncompetitive offer rejected and the rental submitted refunded.

Beginning on January 3, 1989, § 3110.1 of the final rulemaking provides that all unleased lands will be available for noncompetitive lease offer prior to their competitive offering, with two exceptions. Lands in terminated, expired, relinquished, or canceled leases will not be available for the filing of a noncompetitive offer until one year from the date of lease termination, expiration, cancellation, or relinquishment and also from the date of posting of a nomination or sale notice until the lands have been through the competitive offering without receiving a nomination or a bid, as appropriate.

The public shall take notice that under § 3110.1(a)(1) noncompetitive filings prior to a competitive auction will not be permitted until after January 2, 1989. It should be clearly understood that all lands still must be subjected to competition before being leased. An offer filed for lands prior to those lands being posted in a List of Lands Available for Competitive Nominations or a Notice of Sale will trigger processing of the lands to determine availability and stipulations, the placement of the parcel in the competitive sale process and, failing its receiving a bid, leasing it to the priority offeror. Priority will be established as of the day the offer was properly filed and will have seniority over subsequent offers, including any offers filed following the sale.

Many comments dealt with ambiguities regarding when lands would

be available for filing of noncompetitive lease offers following competition. The final rulemaking is amended in § 3110.1 to make it clear that lands are available noncompetitively the first business day after the sale, or where formal nominations are used the first business day after the posting of the Notice of Competitive Lease Sale. Other comments objected that the term, "bid," is imprecise, preferring the phrase "bid less than the national minimum". The term is defined in § 3000.0-5(k) of this final rulemaking, and there is no need to redefine it.

There were several comments and questions on § 3110.2(a), which dealt with offers filed between December 22, 1987, and the promulgation of this final rulemaking. Some comments questioned the meaning of the phrase "lands then available for noncompetitive leasing." Others maintained that, prior to the promulgation of final regulations, no lands were available for noncompetitive filing. No distinction is now made in the final rulemaking between offers filed between the date of the Reform Act and this final rulemaking, and noncompetitive offers filed after January 2, 1989, and prior to the competitive offering of such lands. Regular noncompetitive offers had been routinely accepted for filing with priority up to the date of the Reform Act, and the Act did not prohibit the filing of such offers, but required that all lands including those contained in such filings be first exposed to competition. The Bureau made no attempt to halt such filings and, under statute, has exposed them to competition, issuing competitive leases where a bid was received and issuing a noncompetitive lease to the priority filer when no bid was received. The public should note that these filings will not be accepted between June 12, 1988, and January 2, 1989, to provide all parties adequate notice to this provision in the final rulemaking. Offers filed before June 12, 1988, will receive priority and, unless a competitive bid is received for such lands, a noncompetitive lease will be issued to the priority filer, all else being regular.

Numerous comments were received on § 3110.2(b) of the proposed rulemaking. The reference to priority as of the time of filing, remains in the final rulemaking. However, the meaning of the term "noncompetitive offers" is broadened in the final rulemaking to include offers for all available lands outside the competitive sale process.

The two sentences in § 3110.2(b) of the proposed rulemaking referring to conflicting offers have been revised in this final rulemaking to specify that the

period in which all offers will be considered simultaneously filed is the single business day following an oral auction or following the posting of a Notice of Competitive Lease Sale when formal nominations are used. Offers received on subsequent days shall receive priority as of the time of filing, e.g., an offer filed at 10:15 a.m. will have priority over an offer filed at 10:16 a.m.

The last sentence of § 3110.2(b) of the proposed rulemaking has been modified to specify that offers will not be available for public inspection the day they are filed, but the final rulemaking is purposely silent as to when after that time such offers are available for public review. This change is necessary because of the large volume of offers which may be received on that day. While it is the Bureau's policy to make public records available as soon as practicable, it is not appropriate to specify a certain time for availability which could conflict with the orderly processing of such offers. Many comments expressed the need for confidentiality of offerors prior to an auction. As a matter of practicality, offerors have many means to accomplish anonymity.

Several comments on § 3110.2(c) of the proposed rulemaking questioned the concept of allowing noncompetitive offers pursuant to an opening order. In the final rulemaking, lands in an opening order or other notice may be available for noncompetitive offer depending on their status vis-a-vis the competitive process. Section 3110.2(c) of the proposed rulemaking is, therefore, retained and revised as § 3110.1(a)(2) in the final rulemaking to cover such special situations.

Section 3110.2(d) of the proposed rulemaking led to a great deal of confusion as indicated in several comments. The proposed language referred only to simultaneous applications received under former Subpart 3112. The provision is designed to address and handle a quirk in that former program whereby an application was drawn in priority, the lease offer was refused (rejected), and a reselection of another priority applicant was made. For many parcels, this process has been repeated endlessly resulting in much wasted effort with no lease yet issued. The Bureau is still executing cyclical reselections for simultaneous parcels first drawn in 1983, and has hundreds of such lease parcels, through late 1987, which have not been accepted by an applicant for lease issuance. The proposed rule was designed to allow one more reselection cycle after the effective date of this final rulemaking for

each such "unclaimed" parcel, after which all remaining applications are to be considered rejected without further notice. Rentals for these applications were refunded long ago. The provision will not apply to over-the-counter offers that were made subsequent to enactment of the Reform Act and those offers that are filed under this final rulemaking. Accordingly, this provision is amended to clarify the provision and is redesignated in the final rulemaking as § 3110.2(b).

Section 3110.3-1 Duration of lease.

One comment on this section of the proposed rulemaking concerning the length of the primary term for competitive and noncompetitive leases suggested a 10-year competitive term and 5-year noncompetitive term. Another comment suggested keeping the primary term for noncompetitive leases at 10 years but requiring a well to hold the lease beyond 5 years. The final rulemaking has not adopted these suggestions since the lease terms are clearly established by law.

Section 3110.3-2 Dating of leases.

Some comments suggested that the proposed rulemaking overlooked the requirement for lease issuance within 60 days of the date the first qualified applicant is identified, and recommended that this be included in the final rulemaking. The time period is specified in the Reform Act, and does not need to be repeated in regulations. The final rulemaking does not adopt this suggestion. The Bureau, however, is committed to act in a timely manner on all lease actions to meet this requirement of the Reform Act.

Section 3110.3-3 Lease offer size.

Several comments were received on § 3110.3-3 of the proposed rulemaking. Most comments favored the minimum size specified in the proposed rulemaking for a public domain lease offer, and commended the retention of the maximum size of 10,240 acres within a 6-mile square. One comment, however, suggested allowing an offer for less than 640 acres or 1 full section, whichever is less, rather than whichever is larger. This comment recommended that since some irregular sections are less than 640 acres, the final rulemaking should indicate that a lease offer may be made on all Federal lands available in a section. Another comment stated that the provision in the proposed rulemaking that an offer may include less than all available lands in a section if the offer exceeds the minimum 640-acre provision contradicts the first sentence within the same paragraph.

The final rulemaking does not adopt these two comments. The intent of the rule is to promote efficient resource development by requiring leases to be formed in reasonably large, compact blocks. If an irregular section contains more than 640 acres, the offer must include the entire section, thus, the requirement in the rule of "larger" rather than "less". If the section of land is less than 640 acres, any contiguous available lands must be included, unless the offer contains other available lands which bring the lease offer to at least 640 acres.

Another comment on § 3110.3-3(a) of the proposed rulemaking suggested that the exception to the 640-acre minimum requirement for noncompetitive offers filed on a parcel offered by the Bureau in a competitive lease sale should be limited to the time period when the description by parcel number is required under § 3110.8-1 of the proposed rulemaking, which is redesignated § 3110.5-1. This suggestion is adopted in the final rulemaking, and this exception is moved to the end of paragraph (a) of § 3110.3-3 for clarity.

Section 3110.4 Requirements for offer.

A Bureau of Land Management review of §§ 3110.4, 3110.5, 3110.6, 3110.7, and 3110.8 of the proposed rulemaking recognized that these sections were not in the appropriate order to follow the logical sequence of actions when a noncompetitive offer is filed. The final rulemaking is amended to place the sections required in this subpart in the correct order of events.

Section 3110.7 of the proposed rulemaking, redesignated § 3110.4 in the final rulemaking, received several comments expressing the view that the word "shall" in the first sentence seems to require use of the current lease form. The comments suggested that this requirement conflicts with § 3110.5(d) of the proposed rulemaking, redesignated as § 3110.7(e) in the final rulemaking, in which a form not currently in use shall be allowed, unless such lease form has been declared obsolete by the Director prior to the filing. This suggestion is not adopted in the final rulemaking. The Bureau is completing revisions to the lease form to conform to the requirements of the Reform Act. The revised lease form is expected to be available for public use soon after this final rulemaking is published. Until the revised lease form is available, and sufficient time has been allowed for general circulation, existing lease forms will be acceptable for filing noncompetitive lease offers. The Bureau will publish a notice in the *Federal Register* (anticipated in July 1988)

specifying the acceptable lease form and will give interested parties a reasonable time period in which to obtain them before declaring the previous lease form obsolete. The provision relating to the lease form in paragraph (d) in § 3110.5 of the proposed rulemaking, redesignated as § 3110.7 in the final rulemaking, is revised and placed in a new paragraph (e), but certain language is retained in the final rulemaking in the event that future modifications or changes to the lease form are necessary.

One comment on § 3110.7 of the proposed rulemaking, redesignated § 3110.4 in the final rulemaking, suggested that in order to save paperwork only one original lease form should be required as opposed to the requirement of an original and 2 copies. This recommendation is not adopted in the final rulemaking. Each offer to lease may eventually mature into a lease. Accordingly, an original and 2 copies of the offer are necessary to provide sufficient copies for the lessor, the lessee, and the surface managing agency.

Another comment on this section recommended that the phrase "or attorney-in-fact" be added after the term "authorized agent" in paragraph (a). This suggestion is not adopted since an attorney-in-fact is an agent.

A few other comments on paragraph (a) of this section of the proposed rulemaking suggested that the phrase "by a nonrefundable application fee of \$75 and the first year's rental" be clarified. The commenters expressed the view that the language as proposed implies that the first year's rental is nonrefundable. It was not intended that noncompetitive rentals would be subject to forfeiture. The final rulemaking has been modified to make this clear.

Several comments requested clarification or correction of references to §§ 3103.2-1(a) and 3103.3-3(c) in § 3110.7(b) of the proposed rulemaking, redesignated in the final rulemaking as § 3110.4(b). The reference to § 3103.2-1(a) is correct. Offers deficient in the first year's rental by not more than 10 percent or \$200, whichever is less, shall be acceptable. The reference in the proposed rulemaking to § 3103.3-3(c) was incorrect, and is corrected in the final rulemaking to specify § 3110.3-3(c), which addresses curable defects of an offer that exceeds the 10,240-acre maximum size by not more than 160 acres. No loss in priority to an offer to lease would occur in these two instances, provided that the requirements are satisfied within the time allowed in these regulations.

Several comments on this section raised questions concerning the provision for a correction of an offer to lease. One comment requested clarification as to what circumstances would prompt the authorized officer to request a correction to an offer. Another comment stated that correction of an offer is a very broad notion, and that not all corrections should result in a new priority date being set as of the date the correction has been made. The effect of corrections on the amount of filing fees required also was questioned. The intent of the regulation is to allow correction of minor errors in an offer, if there is no intervening offer, which otherwise would cause a rejection of the offer. Curable defects with no loss in priority will be allowed only in those instances specified in §§ 3103.2-1(a) and 3110.3-3(c) of the final rulemaking. No new filing fee would be required if the offer is acceptable with the corrections made.

Several comments objected to the provision in § 3110.7(e) of the proposed rulemaking, redesignated in the final rulemaking as § 3110.4(e), which requires that all offers to lease should name the United States agency from which consent to the issuance of a lease shall be obtained. The comments suggested that the Bureau can more easily identify the surface managing agency. The Bureau recognizes that this identification may create some burden to offerors. However, where title information for the mineral interest is uncertain on Bureau records and a title abstract is needed, identification of the surface managing agency expedites processing of lease offers. The Bureau will continue to request this information for lands nominated through filing of a noncompetitive offer or an informal expression of interest prior to inclusion of the lands in a competitive offering. Inclusion of the information on the lease form is not mandatory for a noncompetitive offer and will not result in a loss of priority. The language of the proposed rulemaking is adopted without change.

Section 3110.5 Description of lands in offer.

A large number of comments was received on § 3110.8-1 of the proposed rulemaking, redesignated § 3110.5-1 in the final rulemaking, concerning the requirement that applicants making noncompetitive offers during the month of the noncompetitive process be required to describe the lands only by a single parcel number as it appeared in the List of Lands Available for Competitive Nominations and the Notice of Competitive Lease Sale. One comment pointed out that the "and"

requirement would be impossible to meet where the direct sale method is used and there is no List of Lands Available for Competitive Nominations. Additionally, the comments suggested that if the parcel numbers were not the same on both the List of Lands Available for Competitive Nominations and the Notice of Competitive Lease Sale, even more confusion could result. The final rulemaking corrects this defect in this section, redesignated as § 3110.5-1, to indicate that the parcel number to be used will be that number as specified in the notice or list. When the nomination process is used, internal Bureau procedure will require that the same parcel number appearing on a nominations list also must be used on the corresponding Notice of Competitive Lease Sale.

Other comments on this section objected to the phrase, "the end of the month of the competitive process." The Bureau concurs that this terminology is ambiguous. The final rulemaking has been amended to specify that the period required for use of the parcel number (the parcel number period) in submitting lease offers commences on the day following the oral auction, or where formal nominations are used, the day following the posting of the sale notice, until the end of that same month.

Several comments on this section also questioned the rationale for limiting the noncompetitive offer to a single parcel or for requiring that those offers filed within the parcel number period must retain the configuration contained in the nomination lists and sale notices that offered the lands competitively. The Bureau adopts this restriction in anticipation that some parcels may pass through the competitive process without a bid but still may be attractive enough to invite several noncompetitive offers. Retaining the parcel configuration, and limiting the offer to a single parcel, will prevent overlapping and partial offers, and allow the Bureau to adjudicate conflicting offers on the same parcel more quickly. Additionally, this requirement will obviate the need to obtain revised stipulations to fit a different lease parcel configuration, thus removing a possible impediment to lease issuance.

One comment on this section of the proposed rulemaking suggested that the final regulation should be flexible enough to allow lease offers on the basis of the parcel number description throughout the two years the lands are available noncompetitively following the competitive offering. The comment recommended that offerors also should be able to rely on the acreage figure

associated with the parcel as indicated in the listing. Another comment contended that the parcel number description requirement should be required for the entire 2-year period. A few comments supported limiting the parcel number period to a single day or other extremely brief period. These suggestions are not adopted in the final rulemaking since such a provision would permanently prevent a potential offeror from acquiring only the land configuration he or she might desire in a single lease. Such a requirement could also create confusion in the later stages of the 2-year period of availability of the lands for noncompetitive leasing, since parcel numbers could become numerous following several sale processes. After the required period, the lands in the offer shall be properly described; use of the parcel number by itself will result in rejection of the offer.

Section 3110.8-3 of the proposed rulemaking, redesignated in the final rulemaking as § 3110.5-3, received several comments suggesting deletion of paragraph (e) allowing the authorized officer to waive the land description requirements, stating that it duplicates paragraph (d). Another comment opposed the provision allowing an acquisition tract number in lieu of a legal description because it would complicate the Bureau's automated lands and minerals record system. This provision of the proposed rulemaking was designed to allow the offeror the greatest possible flexibility in clearly and accurately describing lands covered by an offer without loss of priority. The final rulemaking removes paragraph (e) of the proposed rulemaking and redesignates paragraph (f) of the proposed rulemaking as paragraph (e). Redesignated § 3110.5-3(d) is amended to state clearly that the authorized officer may allow the description by acquisition or tract number without any other legal land description required by this section.

Section 3110.6 Withdrawal of offer.

Section 3110.4 of the proposed rulemaking, redesignated as § 3110.6 in the final rulemaking, received several comments that opposed the prohibition of withdrawal of a noncompetitive lease offer earlier than 60 days following its filing. On balance, the reasons for imposing the limitations on withdrawal of an offer filed on lands available after the competitive process outweigh the disadvantages of such a limitation. Experience has shown that offers are treated by some as an "option" on a lease during which time efforts are made to sell it to a third party. When such

efforts fail, the offer is then withdrawn. This practice, although not widespread in the industry, has the effect of encouraging offers filed in less than good faith, and keeps legitimate developers from acquiring available lands as prospects. A 60-day prohibition on withdrawal maximizes the lands available, facilitates orderly issuance of leases, and ensures that the public's resources are spent in furtherance of leasing rather than in aiding lease speculation.

Some comments suggested that allowing withdrawals of offers would speed refunds when a lease is issued to the senior offeror. Junior offers are rejected by the Bureau at the time the senior offeror is issued the lease, and rental refunds are authorized as soon as a lease issues. Allowing such withdrawals would not speed this process but would merely add an unnecessary paperwork burden. When unexpected delays, such as litigation, prevent timely lease issuance, the offer could be withdrawn after the 60 days. The final rulemaking retains the 60-day limitation on withdrawal of offers made in accordance with § 3110.1(b) of the final rulemaking on those lands available during the 2-year period following the end of the competitive offering. In such an offer is withdrawn, the lands would continue to be available for noncompetitive leasing for the remainder of the 2-year period under § 3110.1(b).

A few comments on this section of the proposed rulemaking suggested that the phrase specifying withdrawal "at least 60 days after the date of filing" in this section of the proposed rulemaking was unclear. In response to these comments, the final rulemaking is amended to state that such a withdrawal is allowed only after 60 days from the date of filing of such an offer.

A few comments received on this section of the proposed rulemaking suggested that if noncompetitive offers are allowed to be filed as a means of establishing priority before the competitive offering of the lands, that the offeror should be allowed to withdraw the offer prior to the competitive offering if the stipulations are found to be unacceptable to the offeror. The comment further contended that such offerors should be notified of the stipulations prior to inclusion of the lands in the Notice of Competitive Lease Sale, and that if the stipulations are unacceptable, the lands should not be placed on the sale list or notice. Notification of any stipulations for the lands in such an offer filed prior to the competitive offering is inappropriate

and unnecessary. Since the Reform Act places greater emphasis on the competitive offering of lease parcels, all members of the public should be advised of the terms and conditions through the normal competitive procedures for conducting competitive sales. However, this section and § 3101.1-3 have been amended in the final rulemaking to allow for the withdrawal of an offer filed prior to the competitive process, if at any time prior to lease issuance, the offeror finds that the stipulations would be unacceptable. Unlike offers filed under § 3110.1(b), those offers filed prior to the competitive offering would not be affected by the 60-day limitation for withdrawal provided that the withdrawal is made prior to lease issuance.

Section 3110.7 Action on offer.

A number of comments were received on § 3110.5 of the proposed rulemaking, redesignated as § 3110.7 in the final rulemaking. Most comments suggested that paragraph (b), as well as the reference in paragraph (a) to extensions, petitions for reinstatements, and existing or former leases, be removed from this section and placed in Subpart 3120, because it would take at least 90 days for the lands to progress through the competitive process and become available for noncompetitive leasing. The comments contended that such matters as lease reinstatements and extensions should be resolved before offering the lands competitively. It is unlikely that a noncompetitive lease could be issued in such a short time frame, and that reinstatements and extensions should normally be resolved prior to competitive offering of the lands. However, no change is made in these paragraphs in the final rulemaking since the possibility does exist that a recently terminated lease could be offered competitively, receive no bids, and then be available for noncompetitive offer. In view of these comments, § 3120.5-3 of the final rulemaking also has been amended to include this same provision.

Another comment on this section suggested that paragraph (a) be clarified to specify that if a lease is issued for lands included in a terminated lease before a petition for reinstatement is filed, the subsequent lease shall not be canceled. This suggestion is not adopted in the final rulemaking because the regulations provide for cancellation of a lease that should not have been issued. The last sentence of paragraph (a) sufficiently states that the subsequent lease will be canceled if the petitioner is entitled to reinstatement. If the petition is filed after a lease is issued,

reinstatement of the prior lease cannot be made.

Several comments on this section suggested that the word "erroneously" be inserted in paragraph (a) to make it clear that leases will not be indiscriminately issued before the necessary paperwork is completed. The comments contended that unless an error is made, a lease should not be issued until final action is taken on all previous offers or leases. The final rulemaking does not adopt this suggestion because it is unnecessary to specify the reason the lease was issued. The intent of this provision is to require cancellation if the lease should not have been issued.

Section 3110.9 Future interest offers.

One comment received on §§ 3110.9-1 and 3120.7 of the proposed rulemaking suggested that the question of competitive and noncompetitive leasing of future interests be addressed by further specific legislation. This comment is beyond the scope of this rulemaking since these final regulations must implement the statute now in effect. Another comment on § 3110.9 of the proposed rulemaking questioned whether a future interest could be leased noncompetitively without first going through the competitive process, and requested clarification of the meaning of the phrase "substantially all of the present operating rights in the lands," suggesting "substantially all" means 50 percent or more and that "lands" could mean future interest lands or all lands in a communitized area.

Under the Reform Act, future interest lands may be leased both competitively and noncompetitively. Since no lease may be issued under the Reform Act without first being subjected to the competitive process, the present interest holder may gain the sole right to a lease with a successful competitive bid over any noncompetitive applicant whose offer is nullified by the competitive bid. Accordingly, the provision limiting leasing noncompetitively only to one who owns "all or substantially all" is removed in §§ 3110.9-1 and 3110.9-2 of the final rulemaking.

A few comments questioned the meaning of the phrase, "the same type and proportion," in § 3110.9-4(a) of the proposed rulemaking. The language is sufficiently clear in the proposed rulemaking that a transfer of a present interest, either record title or operating rights, generates a concurrent transfer of the future interest. No change is made in the final rulemaking.

Part 3120—Competitive Leases

Section 3120.1-1 *Lands available for competitive leasing.*

Several comments addressed the term "available" in § 3120.1-1 of the proposed rulemaking. One comment suggested a change to clarify the term, expressing concern that the Bureau would offer all available lands whether or not it would be in the public interest to lease and prior to compliance with National Environmental Policy Act requirements. Another comment questioned whether the Bureau could retain the option to withhold tracts. One comment suggested a provision be included requiring the Bureau to offer *all* available lands for competitive leasing within 18 months from their date of availability. Other comments expressed concern as to how unleased lands (those available over-the-counter prior to enactment of the Reform Act and those newly available due to a change in status or the law) could be cycled through the competitive process.

The term "available" means any lands subject to leasing under the Mineral Leasing Act. As used in the context of this section, all such lands are required to be offered competitively. It is Bureau policy prior to offering the lands to determine whether leasing will be in the public interest and to identify stipulation requirements, obtain surface management agency leasing recommendations and consent where applicable and required by law. Since these requirements are required to be met and an identification and copy of the stipulations applicable to each parcel is to be included in the Notice of Competitive Lease Sale, it would be virtually impossible to offer *all* available lands within 18 months. Also, far more lands are and always have been available than have been leased. Moreover, many if not most lands will not be "offered" by the Bureau but are nonetheless available for filing or expressions of interest. Offering unleased lands for cycling through the competitive process is discussed under Subpart 3110 regarding opening orders in special situations for newly available lands. The final rulemaking expands the categories of available lands in this section to include lands for which an offer or expression of interest has been received by the proper BLM office, and lands included by Bureau motion.

A few comments on § 3120.1-1(c) of the proposed rulemaking suggested that when an undivided interest in a lease is canceled, the regulations should include a provision requiring the Bureau to offer to the other holders of interest in that lease a right of first refusal to purchase

that interest in an amount equal to the highest bid received at the oral auction or the opportunity to exceed such highest acceptable bid. Offering the right of first refusal is contrary to the competitive intent of the law. Other interest holders would have the opportunity at the sale to exceed the highest bid. The suggestions is not adopted in the final rulemaking.

One comment alleged that § 3120.1-1(d) of the proposed rulemaking allowed leasing within units of the National Park System without consent. This is not the case since this paragraph states only that lands subject to drainage are available for competitive leasing.

Another comment concerning § 3120.1-1(d) suggested that a definition of "protective leasing" be included in this subpart. The suggestion is not adopted as this subject is properly addressed in § 3100.2.

Section 3120.1-2 *Requirements.*

Several comments on this section of the proposed rulemaking expressed concern about the scheduling of the sale dates, suggesting that the dates not overlap among the Bureau State Offices. It is Bureau policy to plan sale dates on a non-conflicting basis. Sale notices will give those parties wishing to participate an ample amount of time to make plans to attend the oral auctions. Depending on the availability of lands and individual State Office workloads, the sales normally will be scheduled bi-monthly by some State Offices and at least quarterly by other State offices. Where a State Office has few lands available, rather than delaying offering them, it may include these parcels in nearby State Office sales.

Several comments on this section questioned whether oral auctions are required to be held in the States where the available lands are located. The Reform Act allows the Bureau to hold sales in any State where the office has jurisdiction over the lands. The final rulemaking amends this section to make this clear.

A number of comments on § 3120.1-2(c) of the proposed rulemaking recommended that the national minimum acceptable bid be prorated on a net-acre basis rather than on a gross-acre basis. The Bureau has no evidence of Congressional intent to permit proration of bonus bids. Bidders will be made aware of the percentage of Federal mineral interest held in the lands in order to adjust their bids accordingly. Administratively, proration is cumbersome. The recommendation has not been adopted in the final rulemaking.

Section 3120.1-3 *Protests and appeals.*

One comment of this section of the proposed rulemaking requested that the final rulemaking clarify the provisions for suspension of a lease sale when a protest or appeal is received. The final rulemaking amends this section to specify that only the Assistant Secretary for Land and Minerals Management may suspend a sale for good and just cause after reviewing the reason(s) for such action.

Other comments on this section recommended that, in order to preclude indefinite suspension, specific limitation (e.g., 30 days) should be imposed on the length of time that a parcel can be suspended from competitive sale. Such a time frame is not feasible because the Department cannot determine in advance when the grounds for suspension of any parcel would be resolved.

Section 3120.2-1 *Duration of leases.*

Several comments addressed the primary term of competitive and noncompetitive leases and requested varying changes in this section of the final rulemaking. Since the Reform Act did not change this provision of the Mineral Leasing Act, there is no need to amend this section.

Section 3120.2-3 *Lease size.*

Varying comments were received on this section of the proposed rulemaking concerning lease size. A few of the comments requested that the lease size continue to be no larger than 640 acres. After consideration of these comments, it has been determined that the final rulemaking should allow discretion to decide how much acreage should be included in each lease parcel, up to the maximum 2,560 acres specified in the Reform Act. Expressions of interest from industry, the extent of lands available within a particular area, and the goal of parcels having compact form, will be considered by the Bureau in configuring parcels. The final rulemaking adopts the language of the proposed rulemaking without change.

Section 3120.3 *Nomination process.*

Section 3120.3-1 *General.*

A large number of comments was received on the type of sale method to be used by the Bureau: The nomination method or the direct sale method. The comments were essentially evenly divided between both methods. The majority of the comments did recommend that the Bureau choose a consistent method nationwide to lessen confusion and assist industry planning.

Several comments questioned the legality of the formal nomination process and expressed the view that this method does not comply with the Reform Act. The Department has considered all the views presented and remains convinced that the nomination process is legally consistent with the Reform Act. Considering the Bureau's experience with the test sales, the variations apparent in the oil and gas leasing activities nationwide, and the many comments received, it is appropriate that Subpart 3120 of the final rulemaking should allow regulatory flexibility to permit the use of either sale method should conditions warrant in the future. The final rulemaking, under § 3120.3, vests in the Director of the Bureau of Land Management and authority to implement the formal nomination process or permit expressions of interest following a public comment period of at least 30 days. This final rulemaking completes the 30-day comment period, and based on the many comments received with regard to expressions of interest (informal nominations) as well as formal nominations, effective with the publication of this final rulemaking, the Director elects to permit informal expressions of interest to be submitted to the proper BLM office, but declines at this time to employ formal nominations under § 3120.3.

All Bureau of Land Management State Offices, at this time, will use the direct sale method. The public hereby is invited to submit informal expressions of interest for available lands by land description to the proper BLM office for processing by Bureau personnel for inclusion in future oral auctions. The identity of filers of expressions of interest will be kept confidential. No specific form or format is required to submit an informal expression of interest.

Several comments suggested inclusion in the final rulemaking of a provision to allow a person who has submitted an informal expression of interest the opportunity to appeal if the Bureau withdraws a parcel from competitive sale. This suggestion to make a Bureau action to withdraw a parcel an appealable decision has not been adopted. In most instances, parcels are withdrawn from sale only for critical reasons, such as lack of surface managing agency consent, title questions, or restrictive stipulations that would cloud title or restrict lease issuance. When a parcel is withdrawn due to errors or factors that are irreconcilable in the requisite time

frame, the parcel may be reoffered in a future competitive offering.

In response to several comments pointing out that §§ 3120.3-1 and 3120.3-2(d) of the proposed rulemaking appear to be in conflict, the final rulemaking is amended to clarify that formal nominations require submission of the national minimum acceptable bid.

Section 3120.3-2 Filing of a nomination for competitive leasing.

Numerous comments requested that nominations submitted to the Bureau be kept confidential. If and when this sale method is elected by the Director following a public comment period, confidentiality is anticipated to be provided. The Bureau has determined that confidentiality is both desirable and permissible as part of this sale method.

Section 3120.3-3 Minimum bid and rental remittance.

A few comments requested that a nomination with a deficient payment not result in the elimination of the nominated parcel from the sale. The final rulemaking does not adopt this suggestion due to the confusion that would be caused in ascertaining whether the nomination is valid. The final rulemaking is amended in this section and in § 3120.3-2 to provide for refund of all moneys in instances where nominations are unacceptable.

Section 3120.3-4 Withdrawal of a nomination.

Several comments objected to this section of the proposed rulemaking, which disallowed withdrawal of nominations. Any party submitting the minimum national acceptable bid should be required to accept a lease under the terms specified in the List of Lands Available for Competitive Nominations if that party is the sole nominator and bidder, provided no higher bid is received at the oral auction. High bidders at a sale also are required to accept the lease. Withdrawal of a parcel by the Bureau of Land Management is discussed earlier in this preamble under § 3120.3. If the formal nomination process is implemented in the future, and a parcel is withdrawn by the Bureau, all moneys submitted with the nomination will be refunded. The final rulemaking is amended accordingly.

Section 3120.3-7 Refund.

A number of comments on this section of the proposed rulemaking requested that the Bureau of Land Management be required to refund the amounts tendered by unsuccessful nominators in a timely fashion. Specific time periods suggested by commenters ranged from 30 to 60

days following the oral auction. Some of the comments suggested payment of interest to nominators for the time that the funds are held by the Bureau. The Bureau is without authority to pay interest on such funds. It is Bureau policy to refund unearned funds as promptly as possible consistent with limitations imposed by the U.S. Department of the Treasury. Currently, refunds may not be authorized until 30 days following the receipt of a remittance to prevent dispersal of funds when a remittance subsequently may be dishonored. The Bureau will continue its policy of issuing such refunds as promptly as possible, but such a provision is not necessary in the final rulemaking.

Section 3120.4 Notice of competitive lease sale.

Section 3120.4-1 General.

Several comments expressed the view that this section of the proposed rulemaking was inadequate since it failed to require inclusion in a Notice of Competitive Lease Sale of such items as bidding and payment requirements, lease terms and stipulations, surface managing agency information, and other helpful details. The comments have been considered and certain amendments are incorporated in the final rulemaking to require that the sale notice contain the identification and language of the applicable stipulation(s) for each parcel. As a matter of policy and internal Bureau procedure, the notice generally will contain bidding and payment requirements. However, it is unnecessary to include a high level of detail in this section of the final rulemaking.

Section 3120.4-2 Posting of notice.

A few comments on this section of the proposed rulemaking requested that the Bureau of Land Management prepare an affidavit, setting forth the date of posting of the Notice of Competitive Lease Sale in the proper BLM office, and the date the sale notice is made available to the surface managing agency. Such a process is unnecessary. Affidavits, statements, etc., prepared by the authorized officer swearing that the Bureau has complied with the law would be of no value to a lessee should questions on this procedure ever be raised. The final rulemaking does not adopt these comments.

Another comment on this section of the proposed rulemaking questioned the posting of maps in the surface managing agency's office. The Reform Act requires a map or a narrative description of the affected lands to be posted in the

appropriate office of the leasing and land management agencies. Since all Bureau offices use a narrative description, at a minimum, in sale notices and also have tract books or land plats available that depict leased and unleased lands, there is no need for additional language to be added to this section of the final rulemaking. The comment has not been adopted in the final rulemaking.

Section 3120.5 Competitive sale.

Section 3120.5-1 Oral auction.

One general comment on this section of the proposed rulemaking suggested slower-paced sales to accommodate all bidders, and requested Bureau reconsideration of the use of "rapid fire" auctioneers. The Bureau of Land Management will not regulate the process, allowing Bureau State Offices to use familiar local practice to facilitate the oral auction.

Another comment on this section suggested that the final rulemaking allow mail-in bids prior to the oral auction to accommodate those people not able to be present at the oral auction. This suggestion is not adopted, since the Reform Act does not allow consideration of sealed bids.

Some comments on this section suggested that all bidders should be registered. Another comment recommended that confidential bidding numbers be assigned. Based on the test sales, it has been determined that this practice need not be regulated. The proposed rule language is adopted without change in the final rulemaking.

Many of the comments on paragraph (a) of this section of the proposed rulemaking favored bidding on a per-acre basis rather than on a per-parcel basis. However, it has been determined that a flexible posture on this issue is appropriate and a specific practice will not be required. This will allow Bureau State Offices to utilize either method, depending on the standard practices normally used within the area of each office's jurisdiction. No change is made in the final rulemaking.

Several comments objected to the announcement at the oral auction of nominations accompanied by the national minimum acceptable bid. The concern raised by the comments was that announcement of the names of nominators at the oral auction could influence bidding or nonbidding by other parties. The final rulemaking is amended to provide that only the existence of a nomination will be announced at the oral auction in order to establish the base bidding level for a parcel above which oral bidding must

commence. The name of the nominator would not be revealed as no purpose would be served by doing so.

Several comments suggested that § 3120.5-1(c) of the proposed rulemaking was confusing as to the treatment of parcels receiving 2 or more bids with one comment expressing the view that a parcel should be offered at the next competitive sale and that any noncompetitive offer previously filed should retain its priority through the next sale. The final rulemaking has been amended to clarify that this section applies only when multiple nominations result in tie bids for a parcel under the formal nomination process. Such bids will be returned (not rejected) with all moneys refunded to the nominators. Any parcel receiving such multiple nominations when no higher bid is made at the oral auction will be reoffered in a future competitive sale. Additionally, a pending noncompetitive offer filed under § 3110.1(a) for the same parcel in this situation would retain priority if no bids are received for the parcel in a subsequent auction.

Section 3120.5-2 Payments required.

Several comments suggested that the phrase "close of official business hours" in § 3120.5-2(b) of the proposed rulemaking be more specifically defined. This provision in the rule is intended to require that all specified payments for each parcel be made on the same day the parcel is sold. The final rulemaking is amended to allow administrative flexibility to accept payment after official business hours on the same day the parcel is sold in the event that the oral auction extends late, after the normal business time has passed.

Numerous comments expressed dissatisfaction with § 3120.5-2(b)(1) of the proposed rulemaking concerning the payment requirement of 20 percent of the bonus bid on the day of the sale. The comments stated that the \$2 national minimum acceptable bid based on acreage is a known amount prior to the sale, allowing checks to be prepared prior to the sale, but that the 20 percent figure, same as the total bonus bid amount, is an unknown. One comment suggested no payment be required on the day of the sale. A few comments recommended requiring payment of the full bonus bid on the day of the sale. In response to these comments, consideration was given to the merits of requiring either the full bonus bid amount or the \$2 minimum bonus bid on the day of the sale. It has been decided to require only the \$2 minimum bonus bid per acre or fraction thereof at the oral auction. The final rulemaking has been amended accordingly. If

experience at future oral auctions finds that payment of the balance of the bonus bid fails to be remitted in a timely manner within 10 working days following the last day of the auction, a future rulemaking will be considered to require 100 percent of bonus payments at the oral auction, similar to requirements now made by some State governments.

Some comments addressed the requirement in § 3120.5-2(b)(3) of the proposed rulemaking regarding fees covering administrative costs, arguing that Congress did not intend that a filing fee be charged in a competitive sale process. The Reform Act does not support this contention. The administrative fee is charged to help defray the costs of the sale and replaces the charge for the proportionate share of the publication costs previously required in the existing regulations. The final rulemaking adopts the proposed rulemaking without change.

A few comments were directed to § 3120.5-2(c) of the proposed rulemaking. Some commenters suggested that the time allowed to submit the balance of the bonus bid after the sale should be extended to 15 days instead of 10 days. The Departmental decision to require only the \$2 national minimum acceptable bonus bid on the day of the sale rather than the total bonus was partially based on the understanding that the balance of the bonus bid must be received within 10 working days. This shorter time frame will allow interest revenues to accrue to the U.S. Treasury more rapidly, in conformance with a General Accounting Office (GAO) 1985 study concerning loss of such revenues. The GAO study recommended that the Bureau of Land Management reduce the time frame in which bonus bid balance moneys are required to be remitted. No change is made in the final rulemaking. Other comments on this section of the proposed rulemaking suggested that a new paragraph be added either in this section or in § 3120.5-3(a) to avoid forcing a potential lessee to take a parcel if the stipulations or terms were modified after posting of the parcel on a list or notice. Such a lease parcel modification would require the Bureau to reoffer the parcel due to the Reform Act's notice requirement for modifications of lease terms, so that the suggested change is unnecessary.

Section 3120.5-3 Award of lease.

Some comments suggested revising the phrase "high bidder" to "lessee" in the second sentence of § 3120.5-3(a), because it is the lessee who is

responsible for certifying compliance. For purposes of awarding the lease, the terms high bidder and lessee are considered synonymous. The proposed rulemaking is adopted without change.

A few comments suggested that a bid should be binding and supported a penalty for failure to honor a bid. Another comment, however, questioned the right of the Government to retain the first year's rental when a lease never issues and, further, whether a bidder could be deemed liable as well, under any circumstances, for the balance of the bonus bid. A bid is binding and does commit the bidder to payment of the full bonus amount. This provision as well as retention of the minimum bonus bid, the first year's rental and the administrative fee should deter irresponsible bidders.

Several comments on § 3120.5-3(b) of the proposed rulemaking pointed out that the Reform Act requires that competitive leases be issued within 60 days from the date of the sale. The comments requested that this requirement be specified in the final rulemaking. The recommendation is not adopted. The Bureau is committed to adhere to the time frame required by the Reform Act, and no purpose is served by repeating the requirement in the final rulemaking.

A few comments requested that the final rulemaking clarify whether lands will be reoffered competitively if a bid is rejected, and further questioned whether, in such circumstances, a noncompetitive offer filed prior to the competitive process would retain its priority. The final rulemaking adopts the comments and also provides that such a noncompetitive offer will retain priority, provided no bid is received in a subsequent oral auction that would nullify the offer.

Section 3120.6 Parcels not bid on at auction.

A technical amendment is made in the title of this section in the final rulemaking more properly to describe the procedures that are addressed in this section.

Numerous comments were received on this section of the proposed rulemaking. Several comments favored a uniform policy for the period commencing the availability of lands for filing of noncompetitive offers. Other comments requested that lands not receiving bids be made available on the next business day after the competitive sale. A few comments recommended a cooling off period of varying duration prior to noncompetitive opening of the lands in order to allow review of the available lands before the appointed time for filing of lease offers. The final

rulemaking has amended this section to make it consistent with Subpart 3110 regarding availability of those lands for noncompetitive leasing when no bids are received on competitive parcels.

Several comments on the proposed rulemaking suggested that a conflict exists between §§ 3120.6 and 3120.5-1(c). No change is made in the final rulemaking, as parcels receiving no bids in the competitive process are required to be offered noncompetitively, whereas parcels with tie bids resulting from multiple nominations are to be reoffered competitively.

One comment suggested that the Bureau of Land Management should recycle parcels into another competitive offering when no bids are received at the competitive oral auction and no offers are filed during the 2-year period. Such lands should not be recycled until the public identifies the lands to be of interest, e.g., through an expression of interest or a noncompetitive offer filed under § 3110.1(a). This suggestion is not adopted in the final rulemaking.

Section 3120.7 Future interest.

Section 3120.7-1 Nomination to make lands available for competitive lease.

Several comments were received on § 3120.7-1(b) of the proposed rulemaking that would have allowed the holder(s) of the present operating rights to exceed the highest bid received at the competitive sale. A few comments argued strenuously that the present interest holder should have no preferential right. One comment indicated that to allow such a preferential right would subvert the competitive process under the Reform Act by allowing the present owner to avoid bidding in the competitive process. Another comment suggested that allowing a party to exceed the highest bid would not comport with any previous policy. Some comments observed that the Bureau apparently would have to undertake the burden of both identifying and ensuring that the present owner of the oil and gas rights was identified and offered the opportunity to bid. A final comment expressed the view that the present interest owner should be required to protect his or her interest by bidding at the competitive sale.

The Reform Act allows no preference to a present interest holder following a competitive offering of such future interest lands. Accordingly, the final rulemaking removes § 3120.7-1(b).

Section 3120.7-2 Future interest terms and conditions.

A few comments contended that compliance with § 3120.7-2(a) of the proposed rulemaking would be impossible should the future interest owner not hold the present operating rights. The suggestion to limit the requirement to those future interest lessees who also hold the present oil and gas interests has been adopted in the final rulemaking.

A few comments suggested that clarification was needed for the phrase "the same type and proportion," as used in this section of the proposed rulemaking with respect to the requirement that any transfer of the present interest lease would require a similar transfer of the future interest lease. This issue has been discussed earlier in this preamble under § 3110.9-3. For the same reasons addressed previously, no change has been made in the final rulemaking.

Section 3162.3-1 Drilling applications and plans.

Numerous comments were received on this section of the proposed rulemaking. One comment suggested that if the authorized officer denied drilling permits on a lease such that a lease could not be developed, that the leaseholder should be refunded all bonus and rental moneys that had been paid. If such denials were to occur, the lessee or operator could resort to the administrative appeals process and then proceed with judicial recourse for the return of any moneys. This issue is beyond the scope of this rulemaking.

A few comments felt that the 30-day Application for Permit to Drill approval process was too short for completion of the environmental review needed for the drilling proposal. However, the time frame stated in the regulation language does not require the approval of an Application for Permit to Drill on the 30th day. As may be necessary, the Bureau may delay approval based on appropriate reasons. The 30-day period, however, is a period of time in which the Bureau can normally process the majority of the applications to drill.

Numerous comments on this section of the proposed rulemaking were received concerning the administrative delay in approval of an application to drill that would result from the 30-day notice requirement. One comment expressed the view that the additional 30 days of public notice is a superfluous requirement. Other comments also expressed concern that if a lease were to expire during this 30-day period,

particularly if a protest is received during this public review period, the primary term of the lease would, in effect, be shortened by one month. Many comments suggested that those filing an Application for Permit to Drill during the final 30 days of the primary term should be awarded an automatic lease suspension or that any delay in approval be compensated by an automatic extension of the lease. This suggestion has not been adopted in the final rulemaking. As stated above, 30 days is a reasonable period in which the review and approval process on an Application for Permit to Drill can be completed. Onshore Oil and Gas Order No. 1 already establishes a 30-day period for processing a Notice of Staking or an Application for Permit to Drill. In Order No. 1, Operators are forewarned that they should not always expect timely approval if they do not submit their applications at least 30 days prior to the day they wish to start operations. Lack of action on the part of an operator to initiate the required permitting process in a timely manner does not generally constitute reason for a suspension of lease terms or extension of a lease. If the Bureau is unable to take action prior to lease expiration, the operator would be advised and reasons would be given for the delay so that the operator can exercise any appeal rights provided by the regulations.

Another comment suggested that in order to be fully effective on National Forest System lands the rulemaking for § 3162.3-1 should be jointly promulgated with the Department of Agriculture. The Forest Service is developing its separate regulations to govern surface activities on National Forest System lands. The Bureau has no control over the content and timing of the regulations developed by another agency. The Bureau has coordinated with the Forest Service and will comment on its rulemaking to assist in the development of a process that is as streamlined and uniform as possible for drilling applications and surface use plans of operations in order to meet the provisions of the Reform Act.

A few comments recommended that, because the general public, i.e., all interested parties, had the opportunity to consider lease development activities prior to lease issuance through the land use planning and environmental analysis processes, potential opposition to drilling proposals should be limited only to those parties that have a direct interest in the lands affected by the Application for Permit to Drill. Other comments expressed the view that consultation with only the necessary Federal and State agencies was

appropriate. The Reform Act states that notice of an Application for Permit to Drill shall be posted at least 30 days before approval and does not address any specific element of the public. There are instances when the authorized officer may have knowledge of parties having specific interests, and consultation with such parties may be appropriate. The final rulemaking is amended to indicate that the authorized officer shall consult with Federal surface management agencies and other interested parties as required and appropriate.

Another comment expressed concern that potential administrative delays in processing Applications for Permit to Drill could occur due to agencies not having established procedures in effect. The Bureau of Land Management currently has procedures in place as specified in Onshore Oil and Gas Order No. 1. New authority is given by the Reform Act to the Secretary of Agriculture for approval of surface use plans of operations. The Forest Service is currently promulgating regulations and procedures to address its processing of these surface use plans of operations.

One comment suggested that the final rulemaking needs to provide specific terms and conditions governing reclamation of disturbed lands and expressed concern that the proposed rulemaking provided for reclamation only upon abandonment. Regulations are not the appropriate place for site specific reclamation standards to be addressed. Such site specific standards are more properly contained as a part of each surface use plan of operations, tailored to the location of the proposed activity. Order No. 1 requires that the lessee or operator must reclaim those portions of disturbed lands that are no longer required for operations. The final rulemaking adopts the proposed language without change.

A few comments were received concerning the distinction made in the proposed rulemaking between the surface use plan of operations and the drilling plan. Some comments stated that there is not a distinct division between the two plans and that the Bureau should still retain authority over some of contents of the surface use plan of operations. Some comments suggested that the reference to the surface use plan of operations in § 3162.3-1 (d)(2), (f), and (h)(3) should be amended to define more clearly the purpose for the surface use plan. In response to these comments, the final rulemaking has added a definition in § 3160.0-5 of a surface use plan of operations as a plan for surface use,

disturbance, and reclamation for oil and gas drilling operations. The details of the contents of a surface use program are contained in the Onshore Order No. 1. The Bureau will revise Onshore Order No. 1 to distinguish the surface use program as a separate plan that is not a part of the drilling plan, and to clearly show those activities that will require Forest Service approval in accordance with the Reform Act provisions.

A few comments suggested that § 3162.3-1(b) of the proposed rulemaking be revised to require that the surface use plan of operations for National Forest Systems lands shall be approved by the Secretary of Agriculture or his/her representative prior to approval of the drilling plan by the Bureau of Land Management authorized officer. Similar language already exists in § 3162.3-1(h)(3). Also, the revised Interagency Agreement between the Bureau of Land Management and the Forest Service will clearly outline the approval steps for each agency. The final rulemaking makes no change to the proposed language which is adopted without change.

Some comments recommended that § 3162.3-1(c) be revised to require that no drilling operations or surface disturbance preliminary thereto be commenced prior to approval of the drilling plan and the surface use plan of operations. Similar language already exists in this section and since the Bureau of Land Management approves the Application for Permit to Drill (which consists of the drilling plan and surface use plan) no change is made in the language of the final rulemaking. For any Application for Permit to Drill on National Forest System lands, the Bureau would obtain the specific requirements concerning the surface use plan of operations from the Forest Service prior to approval of the drilling plan. Accordingly, the suggestion is not adopted.

Numerous comments were received on § 3162.3-1(d) of the proposed rulemaking. Some of the comments recommended that the Application for Permit to Drill be submitted directly to the appropriate surface managing agency in order to speed up the permit review process, with the appropriate information forwarded to the Bureau of Land Management, since the key posting times are those at the "local offices" of the surface management agency. The Bureau of Land Management has the principal responsibility for approval of the permit to drill, and the surface use plan of operations is a part of the Application for Permit to Drill. As required by Order No. 1, the authorized

officer of the Bureau of Land Management has 7 days to notify the operator whether the application is technically and administratively correct. To delay receipt by the Bureau of an application by having a surface management agency receive it first and then forward the appropriate information to the appropriate Bureau office would not allow the 7-day deadline to be met. Since both the Bureau and the Forest Service have approval authority over parts of the permit to drill, the posting requirements will have to be met in both local offices to meet the provisions of the Reform Act. The recommendation has not been adopted in the final rulemaking.

A comment suggested that an applicant be allowed to send a copy of the Application for Permit to Drill for surface not under Bureau jurisdiction to the appropriate surface management agency at the same time as it is submitted to the Bureau of Land Management to speed up the processing. Onshore Order No. 1 will be revised to encourage, but not require, operators to submit a duplicate copy of the application for lands and surface of which is not under the Bureau's jurisdiction to the other surface managing agency when posting would be required at both locations.

Another comment suggested that § 3162.3-1(d) be clarified by substituting the phrase "commencement of operations is desired" in lieu of the phrase "commencement of operations is anticipated" that was contained in the proposed rulemaking. The comment expressed the view that "anticipated" could be interpreted to mean that approval to commence operations is not needed. This change is adopted in the final rulemaking.

Several comments received on § 3162.3-1(e) of the proposed rulemaking expressed the view that the phrase "expected problems" contained in this section is confusing and unrealistic since companies plan to drill problem-free wells. The comments felt that it was not clear what specific information would be expected to be addressed and submitted in response to this provision. The comments also indicated that the phrase "proposed mitigation" was not clear and suggested that the sentence read "... and proposed mitigation measures to address such hazards." These comments have been adopted and the final rulemaking has been amended to remove ambiguity.

Some comments suggested that the word "restoration" in § 3162.3-1(f) of the proposed rulemaking be changed to "reclamation" to be more consistent

with the language used in the Reform Act. This recommendation is adopted.

One comment suggested adding language in § 3162.3-1(f) that would identify the information the Secretary of Agriculture would require in the surface use plan of operations for National Forest System lands. This recommendation is not adopted since the Forest Service will address such requirements in its rulemaking.

A few comments suggested that the language contained at the end of § 3162.3-1(e) of the proposed rulemaking also be added in § 3162.3-1(f). This amendment would allow for surface use plans of operations to be submitted for multiple wells. This suggestion would benefit the permitting process and, therefore, it has been adopted in the final rulemaking.

Some comments suggested that the Bureau should specify more clearly in the final rulemaking where the Application for Permit to Drill, including the surface use of plan of operations, is required to be posted. The Bureau agrees that this would add clarity to the regulations and language is added in § 3162.3-1(g) to require that the posting shall be in the office of the authorized officer of the BLM and in the appropriate surface management agency if other than the BLM.

Numerous comments were received on § 3162.3-1(g) of the proposed rulemaking questioning what would constitute timely posting of notice for the submittal of the Application for Permit to Drill. A few comments requested that the posting period and review and approval process should run concurrently. The Reform Act requires the posting of the Application for Permit to Drill for at least 30 days prior to approval. The law does not limit posting to only 30 days. The Bureau office where the application will be approved is the office where the application is required to be posted. To allow for concurrent posting in the office of the surface management agency, the Bureau will strive to complete the posting as soon as possible after receipt of the Application for Permit to Drill and/or the Notice of Staking. This suggestion is adopted and appropriate language is added in § 3162.3-1(g) of the final rulemaking. Bureau field offices will be instructed to use all available means to process each Application for Permit to Drill and/or Notice of Staking during the 30-day posting period to minimize the need for additional time beyond this prescribed minimum period.

A few comments questioned the level of detail required in the posting of the notice required in § 3162.3-1(g) of the

proposed rulemaking. One of the comments pointed out that the proposed rulemaking required a map and a narrative description, but the Reform Act requires maps or a narrative description. To be more consistent with the law, the final rulemaking is amended to require maps or a narrative description. In addition, this section is revised in the final rulemaking to specify the level of information required when maps are used. The level of detail required should be sufficient to allow a person to determine reasonably the area where an action would occur. The purpose of the posting, however, is not to give a detailed account of the actions proposed which would be included in the surface use plan of operations that is available in the posting office for public review.

Another comment questioned when a new posting would be required if a drill site location was moved subsequent to the start of the 30-day posting period. If the proposed location is moved, the authorized officer would have to determine if the affected areas have changed significantly enough to require a 30-day posting period. This should remain an administrative decision, since each case will have to be judged on its own merits.

A few comments expressed concern that if both an Application for Permit to Drill and a request for modification of lease terms were concurrently applied for that there would be separate 30-day posting periods that would run in tandem. The Reform Act and these regulations do so specify. The practice of the Bureau generally will be that each request would be treated as a separate application and a 30-day posting period would be required for each regardless of their time of submittal. However, in normal circumstances these two review periods could occur at the same time without delay of approval of the proposed action. The final rulemaking does not adopt this suggestion.

A few comments were received on the language concerning appeals to the Forest Service for the surface use plan of operations contained in § 3162.3-1(h)(3) of the proposed rulemaking. The language in this section is sufficiently clear that the Forest Service alone is responsible for reviewing the decisions rendered on National Forest System lands.

One comment felt that the 30-day notice requirement should not apply to those Applications for Permit to Drill on private surface. The Reform Act is silent with respect to any distinction concerning private surface and Federally-administered surface. No

change is adopted in the final rulemaking since the law requires posting of the required notice.

A comment suggested that the language "as soon as practicable but in no event later than 5 working days" be added in § 3162.3-1(h). This change is adopted in the final rulemaking as suggested and will make it clear that the authorized officer is to act within a specific time period.

A final comment on this section of the proposed rulemaking suggested that the use of the word "stipulations" could cause confusion because that term is used only in legal documents that convey rights. The final rulemaking adopts the suggestion and replaces "stipulations" with "conditions".

Section 3162.3-2 Subsequent well operations.

Section 3162.3-2(a) is revised to make a technical change to specify that if additional surface disturbance is involved in a proposed drilling plan for subsequent well operations, the applicant's proposal also is required to contain a surface use plan of operations.

Section 3162.3-3 Other lease operations.

This section of the rulemaking is also amended to provide that any proposal for other lease operations is required to include a surface use plan of operations. These revisions, along with a revision in § 3164.3(b), will clarify the role of the U.S. Forest Service in the permitting process as required by the Reform Act.

Section 3162.3-4 Well abandonment.

Section 3162.3-4 in the final rulemaking is amended in response to comments to change the phrase "rehabilitated or restored" to "reclaimed" to be consistent with the language used in the Reform Act. Section 3162.5-1(b) also is amended to make this change in the final rulemaking.

A few comments requested that specific procedures be established in § 3162.3-4(a) of the final rulemaking or in an Onshore Operating Order to document the reclamation compliance requirements. The comments also requested that the language in this section be revised to require that the lessee or operator shall promptly plug and abandon, in accordance with applicable notices and orders. In response to these comments, the specific procedures for documenting operator compliance with reclamation requirements are already contained in Onshore Order No. 1. The intent of this rulemaking is to ensure that operators follow site-specific requirements for the

plugging and abandonment of wells as contained in the surface use plan of operations. Such specific information is not appropriately covered universally in an onshore operating order or notice. Two onshore orders are currently in preparation which will outline the Bureau's general well bore requirements for abandonment.

Section 3164.3 Surface rights

A few comments on § 3164.3(b) recommended that this section be revised to reflect more accurately the responsibilities of the U.S. Forest Service as stated in the Reform Act. These comments are adopted and the final rulemaking is amended to include the addition of a new paragraph (c) to specify that the Forest Service shall regulate all surface disturbing activities in accordance with its regulations, and provide the Bureau's authorized officer the notification of appropriate approvals for such activities on National Forest System lands. The provisions of this regulation and approval by the Forest Service are required to be consistent with the terms and conditions of the specific oil and gas lease contract. The Forest Service has no more authority to disapprove activities authorized by the lease rights granted specifically by the lease contract than does the Bureau of Land Management.

Subpart 3220—Competitive leases; General

A comment recommended that the competitive geothermal resources leasing regulations be brought into conformance with the competitive oil and gas leasing regulations contained in this rulemaking by changing the geothermal competitive bidding system from sealed bids to oral auction. Even though the Geothermal Steam Act of 1970 does not prohibit the Secretary from adopting rule changes allowing for oral sales under the geothermal leasing program, such a change were not included in the proposed rulemaking and cannot be included in this final rulemaking.

A few comments were received which were not directed at specific provisions of the proposed rulemaking but rather questioned why the opportunity had not been taken in this rulemaking to revise the procedures for compliance with the National Environmental Policy Act of 1970. These comments referenced two court decisions as evidence that Bureau procedures were deficient. One is a 5-year old decision, *Sierra Club v. Peterson*, 717 F.2d 1409 (D.C. Cir. 1983), and the other is *Conner v. Burford*, 836 F.2d 1521 (9th Cir. 1988), both of which

involved a National Environmental Policy Act document prepared by the U.S. Forest Service for leasing within the National Forest System in 1981. The Bureau's National Environmental Policy Act compliance procedures have been evolving and improving in recent years. In particular, revised planning regulations were promulgated effective July 1983. These regulations address the oil and gas leasing program as well as all Bureau programs in a systematic, cohesive manner. Also, in November 1986, supplemental guidance specifically addressing planning and National Environmental Policy Act compliance within the Bureau's oil and gas leasing program was implemented through Bureau Manual 1624.2. Both the rulemaking and the Bureau Manual were developed with full public involvement. The Bureau will continue to review its planning and National Environmental Policy Act compliance procedures for all programs on an ongoing basis. At such time as additional regulatory changes appear necessary, proposed rulemaking will be initiated.

Editorial and technical changes, and grammatical and spelling corrections, have been made as needed.

The principal authors of this final rulemaking are Rob Cervantes, Sie Ling Chiang, Karl Duscher, Lois Mason, Judy Reed, and Jeff Zabler, of the Bureau of Land Management Washington Office assisted by numerous Bureau of Land Management Field Office representatives and the staff of the Division of Legislation and Regulatory Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and no Regulatory Impact Analysis is required. The Department of the Interior has further determined that this final rulemaking will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The information collection requirements contained in Parts 3100, 3110, 3120, 3130, 3160, 3180, 3200, and 3280 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1004-0034, 1004-0065, 1004-0067, 1004-0074, 1004-0132,

1004-0134, 1004-0135, 1004-0136, 1004-0137, 1004-0138, and 1004-0145.

List of Subjects

43 CFR Part 3000

Public lands—mineral resources.

43 CFR Part 3100

Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3110

Government contracts, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3120

Government contracts, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3130

Alaska, Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3160

Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Penalties, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3180

Government contracts, Oil and gas exploration, Public lands—mineral resources, Surety bonds.

43 CFR Part 3200

Geothermal energy, Government contracts, Mineral royalties, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3280

Geothermal energy, Government contracts, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Under the authority of the Federal Onshore Oil and Leasing Reform Act of 1987, Pub. L. 100-203, and other authorities cited below, Part 3000, Group 3000, and Parts 3100, 3110, 3120, 3130, 3160, and 3180, Group 3100, and Parts 3200 and 3280, Group 3200, Subchapter C, Chapter II of Title 43 of the Code of

Federal Regulations, are amended as set forth below.

June 2, 1988.

J. Steven Griles,

Assistant Secretary of the Interior.

1. The table of contents of Part 3000 is amended by adding the following section:

3000.9 Enforcement.

PART 3000—[AMENDED]

1a. The authority citation for Part 3000 is revised to read:

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Alaska National Interest Lands Conservation Act, as amended (16 U.S.C. 3101 *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), the Act of May 21, 1930 (30 U.S.C. 301-306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Department of the Interior Appropriations Act, Fiscal Year 1981 (42 U.S.C. 6508), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

2. Section 2000.0-5 is amended by revising paragraph (f) to read:

§ 3000.0-5 Definitions.

(f) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the lands subject to the regulations in Groups 3000 and 3100, except that all oil and gas lease offers, and assignments or transfers for lands in Alaska shall be filed in the Alaska State Office, Anchorage, Alaska.

(See § 1821-2-1 of this title for office location and area of jurisdiction of Bureau of Land Management offices).

2a. Section 3000.4 is revised to read as follows:

§ 3000.4 Appeals.

Except as provided in §§ 3101.7-3(b), 3120.1-3, 3165.4, and 3427.2 of this title, any party adversely affected by a decision of the authorized officer made pursuant to the provisions of Group 3000 or Group 3100 of this title shall have a right of appeal pursuant to Part 4 of this title.

3. Section 3000.9 is adopted to read as follows:

§ 3000.9 Enforcement.

Provisions of section 41 of the Act shall be enforced by the United States Department of Justice.

PART 3100-OIL AND GAS LEASING

3a. The table of contents of Subpart 3100 is amended by removing the entries for §§ 3100.3, 3100.3-1, and 3100.3-2, and by redesignating §§ 3100.4, 3100.4-1, 3100.4-2, and 3100.4-3 as §§ 3100.3, 3100.3-1, 3100.3-2, and 3100.3-3, respectively.

3b. The table of contents of Subpart 3101 is amended by revising the title of § 3101.1-1 to read "Lease form."; by revising the title of § 3101.1-2 to read "Surface use rights."; by adding the following entries after § 3101.1-2:

3101.1-3 Stipulations and information notices.

3101.1-4 Modification or waiver of lease terms and stipulations.

by revising the title of § 3101.7-2 to read "Action by the Bureau of Land Management."; by removing §§ 3101.7-3 and 3101.7-4; and by redesignating § 3101.7-5 as § 3101.7-3.

3c. The table of contents of Subpart 3109 is amended by revising the title of § 3109.2 to read "Units of the National Park System."

4. The authority citation for Part 3100 is revised to read:

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Alaska National Interest Lands Conservation Act, as amended (16 U.S.C. 3101 *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), the Act of May 21, 1930 (30 U.S.C. 301-306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), the National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd-ee), the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3100—Oil and Gas Leasing; General

5. Section 3100.0-3 is amended by removing the word "and" at the end of paragraphs (a)(2) (iii) and (v), by adding paragraphs (vii), (viii), (ix), (x), and (xi) to paragraph (a)(2), by removing the word "and" at the end of paragraph (b)(92)(vi), and adding paragraphs (viii), (ix), (x), (xi), and (xii) to paragraph (b)(2), by revising the title of paragraph (g)(4), and by removing the word "areas" in the first sentence of paragraph (g)(4) and replacing it with the phrase "units of the National Park System", to read as follows:

§ 3100.0-3 Authority.

(a) * * *

(2) * * *

(vii) Lands recommended for wilderness allocation by the surface managing agency;

(viii) Lands within Bureau of Land Management wilderness study areas;

(ix) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area;

(x) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an Act of Congress; and

(xi) Lands within the National Wilderness Preservation System, subject to valid existing rights under section 4(d)(3) of the Wilderness Act established before midnight, December 31, 1983, unless otherwise provided by law.

(b) * * *

(2) * * *

(viii) Lands recommended for wilderness allocation by the surface managing agency;

(ix) Lands within Bureau of Land Management wilderness study areas;

(x) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area;

(xi) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an Act of Congress; and

(xii) Lands within the National Wilderness Preservation System, subject to valid existing rights under section 4(d)(3) of the Wilderness Act established before midnight, December 31, 1983, unless otherwise provided by law.

* * * * *

(g) * * *

(4) *Units of the National Park System.*

* * * * *

6. Section 3100.0-3(c) is amended by removing the citation "(Pub. L. 96-514)" and replacing it with the citation "(42 U.S.C. 6506)".

7. Section 3100.0-5 is amended by adding paragraph (k) to read:

§ 3100.0-5 Definitions.

* * * * *

(k) "Bid" means an amount of remittance offered as partial compensation for a lease equal to or in excess of the national minimum acceptable bonus bid set by statute or by the Secretary, submitted by a person or entity for a lease parcel in a competitive lease sale.

§§ 3100.3, 3100.3-1, and 3100.3-2 [Removed]

8. Sections 3100.3, 3100.3-1, and 3100.3-2 are removed in their entirety.

§§ 3100.4, 3100.4-1, 3100.4-2, and 3100.4-3 [Redesignated as §§ 3100.3, 3100.3-1, 3100.3-2, and 3100.3-3]

9. Sections 3100.4, 3100.4-1, 3100.4-2, and 3100.4-3 are redesignated as §§ 3100.3, 3100.3-1, 3100.3-2, and 3100.3-3, respectively, and the cross reference to "§ 3100.4-1(b)" in newly redesignated § 3100.3-3 is amended to read "§ 3100.3-1(b)".

Subpart 3101—Issuance of Leases

9a. Section 3101.1-3 is amended by revising the third and fourth sentences to read:

§ 3101.1-3 Stipulations and information notices.

* * * * *

* * * Any party submitting a bid under Subpart 3120 of this title, or an offer under § 3110.1(b) of this title during the period when use of the parcel number is required pursuant to § 3110.5-1 of this title, shall be deemed to have agreed to stipulations applicable to the specific parcel as indicated in the List of Lands Available for Competitive Nominations or the Notice of Competitive Lease Sale available from the proper BLM office. A party filing a noncompetitive offer in accordance with § 3110.1(a) of this title shall be deemed to have agreed to stipulations applicable to the specific parcel as indicated in the List of Lands Available for Competitive Nominations or the Notice of Competitive Lease Sale, unless the offer is withdrawn in accordance with § 3110.6 of this title. * * *

10. A new § 3101.1-4 is added to read:

§ 3101.1-4 Modification or waiver of lease terms and stipulations.

A stipulation included in an oil and gas lease shall be subject to modification or waiver only if the authorized officer determines that the factors leading to its inclusion in the lease have changed sufficiently to make the protection provided by the stipulation no longer justified or if proposed operations would not cause unacceptable impacts. If the authorized officer has determined, prior to lease issuance, that a stipulation involves an

issue of major concern to the public, modification or waiver of the stipulation shall be subject to public review for at least a 30-day period. In such cases, the stipulation shall indicate that public review is required before modification or waiver. If subsequent to lease issuance the authorized officer determines that a modification or waiver of a lease term or stipulation is substantial, the modification or waiver shall be subject to public review for at least a 30-day period.

11. Section 3101.7-1 is revised to read:

§ 3101.7-1 General requirements.

(a) Acquired lands shall be leased only with the consent of the surface managing agency, which upon receipt of a description of the lands from the authorized officer, shall report to the authorized officer that it consents to leasing with stipulations, if any, or withholds consent or objects to leasing.

(b) Public domain lands shall be leased only after the Bureau has consulted with the surface managing agency and has provided it with a description of the lands, and the surface managing agency has reported its recommendation to lease with stipulations, if any, or not to lease to the authorized officer. If consent or lack of objection of the surface managing agency is required by statute to lease public domain lands, the procedure in paragraph (a) of this section shall apply.

(c) National Forest System lands whether acquired or reserved from the public domain shall not be leased over the objection of the Forest Service. The provisions of paragraph (a) of this section shall apply to such National Forest System lands.

§§ 3101.7-2 and 3101.7-3 [Removed]

12. Sections 3101.7-2 and 3101.7-3 are removed in their entirety.

§ 3101.7-4 [Redesignated as § 3101.7-2 and Amended]

13. Section 3101.7-4 is redesignated as § 3101.7-2 and paragraph (b) is revised to read:

§ 3101.7-2 Action by the Bureau of Land Management.

* * * * *

(b) The authorized officer shall not issue a lease and shall reject any lease offer on lands to which the surface managing agency objects or withholds consent required by statute. In all other instances, the Secretary has the final authority and discretion to decide to issue a lease.

§ 3101.7-5 [Redesignated as § 3101.7-3 and Revised]

14. Section 3101.7-5 is redesignated as § 3101.7-3 and is revised to read:

§ 3101.7-3 Appeals.

(a) The decision of the authorized officer to reject an offer to lease or to issue a lease with stipulations recommended by the surface managing agency may be appealed to the Interior Board of Land Appeals under Part 4 of this title.

(b) Where, as provided by statute, the surface managing agency has required that certain stipulations be included in a lease or has consented, or objected or refused to consent to leasing, any appeal by an affected lease offeror shall be pursuant to the administrative remedies provided by the particular surface managing agency.

15.-16. Section 3101.8 is amended by revising the first sentence to read:

§ 3101.8 State's or charitable organization's ownership of surface overlying federally-owned minerals.

Where the United States has conveyed title to, or otherwise transferred the control of the surface of lands to any State or political subdivision, agency, or instrumentality thereof, or a college or any other educational corporation or association, or a charitable or religious corporation or association, with reservation of the oil and gas rights to the United States, such party shall be given an opportunity to suggest any lease stipulations deemed necessary for the protection of existing surface improvements or uses, to set forth the facts supporting the necessity of the stipulations and also to file any objections it may have to the issuance of a lease. * * *

Subpart 3102—Qualifications of Lessees

17. Section 3102.5-1 is revised to read:

§ 3102.5-1 Compliance.

In order to actually or potentially own, hold, or control an interest in a lease or prospective lease, all parties, including corporations, and all members of associations, including partnerships of all types, shall, without exception, be qualified and in compliance with the act. Compliance means that the lessee, potential lessee, and all such parties (as defined in § 3000.0-5(k)) are:

(a) Citizens of the United States (see § 3102.1) or alien stockholders in a corporation organized under State or Federal law (see § 3102.2);

(b) In compliance with the Federal acreage limitations (see § 3101.2);

(c) Not minors (see § 3102.3);

(d) Except for an assignment or transfer under Subpart 3106 of this title, in compliance with section 2(a)(2)(A) of the Act, in which case the signature on an offer or lease constitutes evidence of compliance. A lease issued to any entity in violation of this paragraph (d) shall be subject to the cancellation provisions of § 3108.3 of this title. The term "entity" is defined at § 3400.0-5(rr) of this title.

(e) Not in violation of the provisions of section 41 of the Act; and

(f) In compliance with section 17(g) of the Act, in which case the signature on an offer, lease, assignment, transfer, constitutes evidence of compliance that the signatory and any subsidiary, affiliate, or person, association, or corporation controlled by or under common control with the signatory, as defined in § 3400.0-5(rr) of this title, has not failed or refused to comply with reclamation requirements with respect to all leases and operations thereon in which such person or entity has an interest. Noncompliance with section 17(g) of the Act begins on the effective date of the imposition of a civil penalty by the authorized officer under § 3163.2 of this title, or when the bond is attached by the authorized officer for reclamation purposes, whichever comes first. A lease issued, or an assignment or transfer approved, to any such person or entity in violation of this paragraph (f) shall be subject to the cancellation provisions of § 3108.3 of this title, notwithstanding any administrative or judicial appeals that may be pending with respect to violations or penalties assessed for failure to comply with the prescribed reclamation standards on any lease holdings. Noncompliance shall end upon a determination by the authorized officer that all required reclamation has been completed and that the United States has been fully reimbursed for any costs incurred due to the required reclamation.

(g) In compliance with § 3106.1(b) of this title and section 30A of the Act. The authorized officer may accept the signature on a request for approval of an assignment of less than 640 acres outside of Alaska (2,560 acres within Alaska) as acceptable certification that the assignment would further the development of oil and gas, or the authorized officer may apply the provisions of § 3102.5-3 of this title.

§ 3102.5-2 [Corrected]

18. Section 3102.5-2 as published in the *Federal Register* on May 16, 1988 (53 FR 17340), is amended by correcting the transposed letters "fo" in the second sentence thereof to read "of".

Subpart 3103—Fees, Rentals, and Royalty

19. Section 3103.1-1 is revised to read:

§ 3103.1-1 Form of remittance.

All remittances shall be by personal check, cashier's check, certified check, or money order, and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—Minerals Management Service, as appropriate. Payments made to the Bureau may be made by other arrangements such as by electronic funds transfer or credit card when specifically authorized by the Bureau. In the case of payments made to the Service, such payments may also be made by electronic funds transfer.

20. Section 3103.2-1 is amended by revising the first sentence of paragraph (a) and all of paragraph (b) to read:

§ 3103.2-1 Rental requirements.

(a) Each competitive bid or competitive nomination submitted in response to a List of Lands Available for Competitive Nominations or Notice of Competitive Lease Sale, and each noncompetitive lease offer shall be accompanied by full payment of the first years rental based on the total acreage, if known, and, if not known, shall be based on 40 acres for each smallest legal subdivision. * * *

(b) If the acreage is incorrectly indicated in a List of Lands Available for Competitive Nominations or a Notice of Competitive Lease Sale, payment of the rental based on the error is curable within 15 calendar days of receipt of notice from the authorized officer of the error.

* * * * *

21. Section 3103.2-2 is amended by correcting the first sentence as published in the *Federal Register* of May 16, 1988 (53 FR 17340), to read, "Rentals shall be paid on or before the lease anniversary date." and by removing paragraphs (a) through (k) and inserting in their place paragraph (a) through (f) to read:

§ 3103.2-2 [Amended]

* * * * *

(a) The annual rental for all leases issued subsequent to December 22, 1987, shall be \$1.50 per acre or fraction thereof for the first 5 years of the lease term and \$2 per acre or fraction for any subsequent year, except as provided in paragraph (b) of this section;

(b) The annual rental for all leases issued on or before December 22, 1987, or issued pursuant to an application or

offer to lease filed prior to that date shall be as stated in the lease or in regulations in effect on December 22, 1987, except:

(1) Leases issued under former Subpart 3112 of this title on or after February 19, 1982, shall be subject after February 1, 1989, to annual rental in the sixth and subsequent lease years of \$2 per acre or fraction thereof;

(2) The rental rate of any lease determined after December 22, 1987, to be in a known geological structure outside of Alaska or in a favorable petroleum geological province within Alaska shall not be increased because of such determination;

(3) Exchange and renewal leases shall be subject to rental of \$2 per acre or fraction thereof upon exchange or renewal;

(c) Rental shall not be due on acreage for which royalty or minimum royalty is being paid, except on nonproducing leases when compensatory royalty has been assessed in which case annual rental as established in the lease shall be due in addition to compensatory royalty;

(d) On terminated leases that were originally issued noncompetitively and are reinstated under § 3108.2-3 of this title, and on noncompetitive leases that were originally issued under § 3108.2-4 of this title, the annual rental shall be \$5 per acre or fraction thereof beginning with the termination date upon the filing, on or after the effective date of this regulation, of a petition to reinstate a lease or convert an abandoned, unpatented oil placer mining claim;

(e) On terminated leases that were originally issued competitively, the annual rental shall be \$10 per acre or fraction thereof beginning with the termination date upon the filing, on or after the effective date of this regulation, of a petition to reinstate a lease under § 3108.2-3 of this title; and

(f) Each succeeding time a specific lease is reinstated under § 3108.2-3 of this title, the annual rental on that lease shall increase by an additional \$5 per acre or fraction thereof for leases that were originally issued noncompetitively and by an additional \$10 per acre or fraction thereof for leases that were originally issued competitively.

22. Section 3103.3-1 is revised to read:

§ 3103.3-1 Royalty on production.

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. Royalty shall be paid in amount or value of the production removed or sold as follows:

(1) 12½ percent on all leases, including exchange and renewal leases and leases issued in lieu of unpatented

oil placer mining claims under § 3108.2-4 of this title, issued after December 22, 1987, except:

(i) Leases issued after December 22, 1987, resulting from offers to lease or bids filed on or before December 22, 1987, which are subject to the rates in effect on December 22, 1987; and

(ii) Leases issued on or before December 22, 1987, which are subject to the rates contained in the lease or in regulations at the time of issuance;

(2) 16½ percent on noncompetitive leases reinstated under § 3108.2-3 of this title plus an additional 2 percentage-point increase added for each succeeding reinstatement;

(3) Not less than 4 percentage points above the rate used for royalty determination contained in the lease that is reinstated or in force at the time of issuance of the lease that is reinstated for competitive leases, plus an additional 2 percentage-point increase added for each succeeding reinstatement.

(b) Leases that qualify under specific provisions of the Act of August 8, 1946 (30 U.S.C. 226c) may apply for a limitation of a 12½ percent royalty rate.

(c) The average production per well per day for oil and gas shall be determined pursuant to 43 CFR 3162.7-4.

(d) Payment of a royalty on the helium component of gas shall not convey the right to extract the helium. Applications for the right to extract helium shall be made under Part 16 of this title.

§ 3103.3-2 [Amended]

23. Section 3103.3-2(a) is revised to read:

(a) A minimum royalty shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased, except that on unitized leases the minimum royalty shall be payable only on the participating acreage, at the following rates:

(1) On leases issued on or after August 8, 1946, and on those issued prior thereto if the lessee files an election under section 15 of the Act of August 8, 1946, a minimum royalty of \$1 per acre or fraction thereof in lieu of rental, except as provided in paragraph (a)(2) of this section; and

(2) On leases issued from offers filed after December 22, 1987, and on competitive leases issued from successful bids placed at oral auctions conducted after December 22, 1987, a minimum royalty in lieu of rental of not less than the amount of rental which otherwise would be required for that lease year.

* * * * *

Subpart 3104—Bonds

24. Section 3104.1 is revised to read:

§ 3104.1 Bond obligations.

(a) Prior to the commencement of surface disturbing activities related to drilling operations, the lessee, operating rights owner (sublessee), or operator shall submit a surety or a personal bond, conditioned upon compliance with all of the terms and conditions of the entire leasehold(s) covered by the bond, as described in this subpart. The bond amounts shall be not less than the minimum amounts described in this subpart in order to ensure compliance with the act, including complete and timely plugging of the well(s), reclamation of the lease area(s), and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease(s) in accordance with, but not limited to, the standards and requirements set forth in §§ 3162.3 and 3162.5 of this title and orders issued by the authorized officer.

(b) Surety bonds shall be issued by qualified surety companies approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by:

(1) Certificate of deposit issued by a financial institution, the deposits of which are Federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the terms and conditions of the lease. The certificate shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party;

(2) Cashier's check;

(3) Certified check;

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of a lease; or

(5) Irrevocable letter of credit issued by a financial institution, the deposits of which are Federally insured, for a specific term, identifying the Secretary as sole payee with full authority to demand immediate payment in the case of default in the performance of the terms and conditions of a lease.

Letters of credit shall be subject to the following conditions:

(i) The letter of credit shall be issued only by a financial institution organized or authorized to do business in the United States;

(ii) The letter of credit shall be irrevocable during its term. A letter of credit used as security for any lease upon which drilling has taken place and final approval of all abandonment has not been given, or as security for a statewide or nationwide lease bond, shall be forfeited and shall be collected by the authorized officer if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date;

(iii) The letter of credit shall be payable to the Bureau of Land Management upon demand, in part or in full, upon receipt from the authorized officer of a notice of attachment stating the basis therefor, e.g., default in compliance with the lease terms and conditions or failure to file a replacement in accordance with paragraph (c)(5)(ii) of this section;

(iv) The initial expiration date of the letter of credit shall be at least 1 year following the date it is filed in the proper BLM office; and

(v) The letter of credit shall contain a provision for automatic renewal for periods of not less than 1 year in the absence of notice to the proper BLM office at least 90 days prior to the originally stated or any extended expiration date.

25. Section 3104.2 is revised to read:

§ 3104.2 Lease bond.

A lease bond may be posted by a lessee, owner of operating rights (sublessee), or operator in an amount of not less than \$10,000 for each lease conditioned upon compliance with all of the terms of the lease. Where 2 or more principals have interests in different formations or portions of the lease, separate bonds may be posted. The operator on the ground shall be covered by a bond in his/her own name as principal, or a bond in the name of the lessee or sublessee, provided that a consent of the surety, or the obligor in the case of a personal bond, to include the operator under the coverage of the bond is furnished to the Bureau office maintaining the bond.

26. Section 3104.3 is revised to read:

§ 3104.3 Statewide and nationwide bonds.

(a) In lieu of lease bonds, lessees, owners of operating rights (sublessees), or operators may furnish a bond in an amount of not less than \$25,000 covering all leases and operations in any one State.

(b) In lieu of lease bonds or statewide bonds, lessees, owners of operating

rights (sublessees), or operators may furnish a bond in an amount of not less than \$150,000 covering all leases and operations nationwide.

27. Section 3104.4 is revised to read:

§ 3104.4 Unit operator's bond.

In lieu of individual lease, statewide, or nationwide bonds for operations conducted on leases committed to an approved unit agreement, the unit operator may furnish a unit operator bond in the manner set forth in § 3104.1 of this title. The amount of such a bond shall be determined by the authorized officer. The format for such a surety bond is set forth in § 3186.2 of this title. Where a unit operator is covered by a nationwide or statewide bond, coverage for such a unit may be provided by a rider to such bond specifically covering the unit and increasing the bond in such amount as may be determined appropriate by the authorized officer.

28. Section 3104.5 is revised to read:

§ 3104.5 Increased amount of bonds.

(a) When an operator desiring approval of an Application for Permit to Drill has caused the Bureau to make a demand for payment under a bond or other financial guarantee within the 5-year period prior to submission of the Application for Permit to Drill, due to failure to plug a well or reclaim lands completely in a timely manner, the authorized officer shall require, prior to approval of the Application for Permit to Drill, a bond in an amount equal to the costs as estimated by the authorized officer of plugging the well and reclaiming the disturbed area involved in the proposed operation, or in the minimum amount as prescribed in this subpart, whichever is greater.

(b) The authorized officer may require an increase in the amount of any bond whenever it is determined that the operator poses a risk due to factors, including, but not limited to, a history of previous violations, a notice from the Service that there are uncollected royalties due, or the total cost of plugging existing wells and reclaiming lands exceeds the present bond amount based on the estimates determined by the authorized officer. The increase in bond amount may be to any level specified by the authorized officer, but in no circumstances shall it exceed the total of the estimated costs of plugging and reclamation, the amount of uncollected royalties due to the Service, plus the amount of monies owed to the lessor due to previous violations remaining outstanding.

Subpart 3106—Transfers by Assignment, Sublease, or Otherwise

29. Section 3106.1 is revised to read as follows:

§ 3106.1 Transfers, general.

(a) Leases may be transferred by assignment or sublease as to all or part of the acreage in the lease or as to either a divided or undivided interest therein. An assignment of a separate zone or deposit, or of part of a legal subdivision, shall be disapproved.

(b) An assignment of less than 640 acres outside Alaska or of less than 2,560 acres within Alaska shall be disapproved unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas to the satisfaction of the authorized officer. Execution and submission of a request for approval of such an assignment shall certify that the assignment would further the development of oil and gas, subject to the provisions of § 3102.5-3 of this title. The rights of the transferee to a lease or an interest therein shall not be recognized by the Department until the transfer has been approved by the authorized officer. A transfer may be withdrawn in writing, signed by the transferor and the transferee, if the transfer has not been approved by the authorized officer. A request for approval of a transfer of a lease or interest in a lease shall be filed within 90 days from the date of its execution. The 90-day filing period shall begin on the date the transferor signs and dates the transfer. If the transfer is filed after the 90th day, the authorized officer may require verification that the transfer is still in force and effect. A transfer of production payments or overriding royalty or other similar payments, arrangements, or interests shall be filed in the proper BLM office but shall not require approval.

(c) No transfer of an offer to lease or interest in a lease shall be approved prior to the issuance of the lease.

Subpart 3107—Continuation, Extension of Renewal

§ 3107.1 [Corrected]

29a. Section 3107.1 is amended by correcting the word "lease" in the phrase "penetrate at least 1 formation recognized" in the second sentence thereof as published in the Federal Register of May 16, 1988 (53 FR 17340), to read "least".

30. Section 3107.2-2 is amended by adding at the end thereof a sentence to read:

§ 3107.2-2 Cessation of production.

* * * The 60-day period commences upon receipt of notification from the authorized officer that the lease is not capable of production in paying quantities.

31. Section 3107.2-3 is amended by revising the first sentence to read:

§ 3107.2-3 Leases capable of production.

No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the lease in production within a period of not less than 60 days as specified by the authorized officer after receipt of notice by certified mail from the authorized officer to so. * * *

32. Section 3107.7 is amended by revising the last sentence and adding an additional sentence to read:

§ 3107.7 Exchange leases—20-year term.

* * * An application to exchange a lease for a new lease shall be filed, in triplicate, by the lessee at the proper BLM office, shall show full compliance by the applicant with the terms of the lease and applicable regulations, and shall be accompanied by a nonrefundable application fee of \$75. Execution of the exchange lease by the applicant is certification of compliance with § 3102.5 of this title.

33. Section 3107.8-1(a) is revised to read:

§ 3107.8-1 Requirements.

(a) Twenty year leases and renewals thereof may be renewed for successive terms of 10 years. Any application for renewal of a lease shall be made by the lessee, and may be joined in or consented to by the operator. The application shall show whether all monies due the United States have been paid and whether operations under the lease have been conducted in compliance with the applicable regulations.

34. Section 3107.8-3(a) is amended by revising the last sentence to read:

§ 3107.8-3 Approval.

(a) * * * Upon receipt of the executed lease forms, which constitutes certification of compliance with § 3102.5 of this title, and any required bond, the authorized officer shall execute the lease and deliver 1 copy to the lessee.

Subpart 3108—Relinquishments, Termination, Cancellation

35. Section 3108.1 is amended by revising the last sentence to read:

§ 3108.1 Relinquishment.

* * * A relinquishment shall take effect on the date it is filed, subject to the continued obligation of the lessee and surety to make payments of all accrued rentals and royalties, to place all wells on the lands to be relinquished in condition for suspension by authorized shut-in or abandonment, and to complete reclamation of the leased lands or surface waters adversely affected by lease operations in a timely manner after abandonment or cessation of oil and gas operations on the lease, in accordance with the regulations and the terms of the lease.

§ 3108.2-4 [Amended]

36. Section 3108.2-4(e)(2) is amended by removing "§ 3102.3-1" and replacing it with "§ 3103.3-1."

37. Section 3108.3 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (d), and adding new paragraphs (b) and (c), to read as follows:

§ 3108.3 Cancellation.

(a) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder, or the lease, the lease may be canceled by the Secretary, if the leasehold does not contain a well capable of production of oil or gas in paying quantities, or if the lease is not committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities. The lease may be canceled only after notice to the lessee in accordance with section 31(b) of the Act and only if default continues for the period prescribed in that section after service of 30 days notice of failure to comply.

(b) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder, or the lease, and if the leasehold contains a well capable of production of oil or gas in paying quantities, or if the lease is committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities, the lease may be canceled only by judicial proceedings in the manner provided by section 31(a) of the Act.

(c) If any interest in any lease is owned or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of the act, the lease may be canceled, or the interest so owned may be forfeited, or the person so owning or controlling the interest may be compelled to dispose of the interest,

only by judicial proceedings in the manner provided by section 27(h)(1) of the Act.

37a. The caption of § 3108.5 as published in the *Federal Register* of May 16, 1988 (53 FR 17340), is corrected to read as follows:

§ 3108.5 Waiver or suspension of lease rights.**Subpart 3109—Leasing Under Special Acts****§ 3109.1-2 [Corrected]**

37b. Section 3109.1-2 as published in the *Federal Register* of May 16, 1988 (53 FR 17340), is amended by correcting the word "by" the second time it appears in the last sentence thereof to read "but".

§ 3109.2 [Amended]

37c. Section 3109.2 is amended by revising its title to read "Units of the National Park System", by revising the phrase "National Park Service areas" wherever it appears to read "units of the National Park System", and by revising the words "area" and "areas" wherever they appear to read "unit" and "units", respectively.

§ 3109.3 [Removed]**§ 3109.4 [Redesignated as § 3109.3]**

38. Section 3109.3 is removed, and § 3109.4 is redesignated as § 3109.3.

39. Part 3110 is revised to read:

PART 3110—NONCOMPETITIVE LEASES**Subpart 3110—Noncompetitive Leases****Sec.**

- 3110.1 Lands available for noncompetitive offer and lease.
- 3110.2 Priority.
- 3110.3 Lease terms.
- 3110.3-1 Duration of lease.
- 3110.3-2 Dating of leases.
- 3110.3-3 Lease offer size.
- 3110.4 Requirements for offer.
- 3110.5 Description of lands in offer.
- 3110.5-1 Parcel number description.
- 3110.5-2 Public domain.
- 3110.5-3 Acquired lands.
- 3110.5-4 Accreted lands.
- 3110.5-5 Conflicting descriptions.
- 3110.6 Withdrawal of offer.
- 3110.7 Action on offer.
- 3110.8 Amendment to lease.
- 3110.9 Future interest offers.
- 3110.9-1 Availability.
- 3110.9-2 Form of offer.
- 3110.9-3 Fractional present and future interest.
- 3110.9-4 Future interest terms and conditions.

Authority: Mineral Leasing Act of 1920, as amended and supplemental (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-

359), the Alaska National Interest Lands Conservation Act, as amended (16 U.S.C. 3101 *et seq.*), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), and the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a).

Subpart 3110—Noncompetitive Leases

§ 3110.1 Lands available for noncompetitive offer and lease.

(a) *Offer.* (1) Effective June 12, 1988, through January 2, 1989, noncompetitive lease offers may be filed only for lands available under § 3110.1(b) of this title. Noncompetitive lease offers filed after December 22, 1987, and prior to June 12, 1988, for lands available for filing under § 3110.1(a) of this title shall receive priority. Such offers shall be exposed to competitive bidding under Subpart 3120 of this title and if no bid is received, a noncompetitive lease shall be issued all else being regular. After January 2, 1989, noncompetitive lease offers may be filed on unleased lands, except for:

(i) Those lands which are in the one-year period commencing upon the expiration, termination, relinquishment, or cancellation of the leases containing the lands; and

(ii) Those lands included in a Notice of Competitive Lease Sale or a List of Lands Available for Competitive Nominations. Neither exception is applicable to lands available under § 3110.1(b) of this title.

(2) Noncompetitive lease offers may be made pursuant to an opening order or other notice and shall be subject to all provisions and procedures stated in such order or notice.

(3) No noncompetitive lease may issue for any lands unless and until they have satisfied the requirements of § 3110.1(b) of this title.

(b) *Lease.* Only lands that have been offered competitively under Subpart 3120 of this title, and for which no bid has been received, shall be available for noncompetitive lease. Such lands shall become available for a period of 2 years beginning on the first business day following the last day of the competitive oral auction, or when formal nominations have been requested as specified in § 3120.23-1 of this title, or the first business day following the posting of the Notice of Competitive Lease Sale, and ending on that same day 2 years later. A lease may be issued from an offer properly filed any time within the 2-year noncompetitive leasing period.

§ 3110.2 Priority.

(a) Offers filed for lands available for noncompetitive offer or lease, as

specified in §§ 3110.1(a)(1) and 3110.1(b) of this title, shall receive priority as of the date and time of filing as specified in § 1821.2-3(a) of this title, except that all noncompetitive offers shall be considered simultaneously filed if received in the proper BLM office any time during the first business day following the last day of the competitive oral auction, or when formal nominations have been requested as specified in § 3120.3-1 of this title, on the first business day following the posting of the Notice of Competitive Lease Sale. An offer shall not be available for public inspection the day it is filed.

(b) If more than 1 application was filed for the same parcel in accordance with the regulations contained in former Subpart 3112 of this title, and if no lease has been issued by the authorized officer prior to the effective date of these regulations, only a single priority application shall be selected from the filings. If the selected application fails to mature into a lease, the lands shall be available for offer under § 3110.1(a) of this title.

§ 3110.3 Lease terms.

§ 3110.3-1 Duration of lease.

All noncompetitive leases shall be for a primary term of 10 days.

§ 3110.3-2 Dating of leases.

All noncompetitive leases shall be considered issued when signed by the authorized officer. Noncompetitive leases, except future interest leases issued under § 3110.9 of this title, shall be effective as of the first day of the month following the date the leases are issued. A lease may be made effective on the first day of the month within which it is issued if a written request is made prior to the date of signature of the authorized officer. Future interest leases issued under § 3110.9 of this title shall be effective as of the date the mineral interests vest in the United States.

§ 3110.3-3 Lease offer size.

(a) Lease offers for public domain minerals shall not be made for less than 640 acres or 1 full section, whichever is larger, where the lands have been surveyed under the rectangular survey system or are within an approved protracted survey, except where the offer includes all available lands within a section and there are no contiguous lands available for lease. Such public domain lease offers in Alaska shall not be made for less than 2,560 acres or 4 full contiguous sections, whichever is larger, where the lands have been surveyed under the rectangular survey

system or are within an approved protracted survey, except where the offer includes all available lands within the subject section and there are no contiguous lands available for lease. Where an offer exceeds the minimum 640-acre provision of this paragraph, the offer may include less than all available lands in any given section. Cornering lands are not considered contiguous lands. This paragraph shall not apply to offers made under § 3108.2-4 of this title or where the offer is filed on an entire parcel as it was offered by the Bureau in a competitive sale during that period specified under § 3110.5-1 of this title.

(b) An offer to lease public domain or acquired lands may not include more than 10,240 acres. The lands in an offer shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions. An offer to lease acquired lands may exceed the 6 mile square limit if:

(1) The lands are not surveyed under the rectangular survey system of public land surveys and are not within the area of the public land surveys; and

(2) The tract desired is described by the acquisition or tract number assigned by the acquiring agency and less than 50 percent of the tract lies outside the 6 mile square area, and such acquisition or tract number is provided in accordance with § 3110.5-2(d) of this title in lieu of any other description.

(c) If an offer exceeds the 10,240 acre maximum by not more than 160 acres, the offeror shall be granted 30 days from notice of the excess to withdraw the excess acreage from the offer, failing which the offer shall be rejected and priority lost.

§ 3110.4 Requirements for offer.

(a) An offer to lease shall be made on a current form approved by the Director, or on unofficial copies of that form in current use. For noncompetitive leases processed under § 3108.2-4 of this title, the current lease form shall be used. Copies shall be exact reproductions on 1 page of both sides of the official approved form, without additions, omissions, or other changes, or advertising. The original copy of each offer shall be typewritten or printed plainly in ink, signed in ink and dated by the offeror or the offeror's duly authorized agent, and shall be accompanied by the first year's rental and a nonrefundable filing fee of \$75. The original and 2 copies of each offer to lease, with each copy showing that the original has been signed, shall be filed in the proper BLM office. A

noncompetitive offer to lease a future interest applied for under § 3109.9 of this title shall be accompanied by a nonrefundable filing fee of \$75. Where remittance for offers are returned for insufficient funds, the offer shall obtain priority of filing until the date the remittance is properly made.

(b) Where a correction to an offer is made, whether at the option of the offeror or at the request of the authorized officer, it shall gain priority as of the date the filing is correct and complete. The priority that existed before the date the corrected offer is filed, may be defeated by an intervening offer to the extent of any conflict in such offers, except as provided under §§ 3103.2-1(a) and 3110.3-3(c) of this title.

(c) An offer shall be limited to either public domain minerals or acquired lands minerals, subject to the provisions for corrections under paragraph (b) of this section.

(d) Compliance with Subpart 3102 shall be required.

(e) All offers for leases should name the United States agency from which consent to the issuance of a lease shall be obtained, or the agency that may have title records covering the ownership for the mineral interest involved, and identify the project, if any, of which the lands covered by the offer are a part.

§ 3110.5 Description of lands in offer.

§ 3110.5-1 Parcel number description.

From the first day following the end of a competitive process until the end of that same month, the only acceptable description for a noncompetitive lease offer for the lands covered by that competitive process shall be the parcel number on the List of Lands Available for Competitive Nominations or the Notice of Competitive Lease Sale, whichever is appropriate. Each such offer shall contain only a single parcel. Thereafter, the description of the lands shall be made in accordance with the remainder of this section.

§ 3110.5-2 Public domain.

(a) If the lands have been surveyed under the public land rectangular survey system, each offer shall describe the lands by legal subdivision, section, township, range, and, if needed, meridian.

(b) If the lands have not been surveyed under the public land rectangular system, each offer shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by

courses and distances to an official corner of the public land surveys.

(c) When protracted surveys have been approved and the effective date thereof published in the **Federal Register**, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands in the same manner as provided in paragraph (a) of this section for officially surveyed lands.

(d)(1) Where offers are pending for unsurveyed lands that are subsequently surveyed or protracted before the lease issuance, the description in the lease shall be conformed to the subdivisions of the approved protracted survey or the public land survey, whichever is appropriate.

(2) The description of lands in an existing lease shall be conformed to a subsequent resurvey or amended protraction survey, whichever is appropriate.

(e) The requirements of this section shall apply to applications for conversion of abandoned unpatented oil placer mining claims made under § 3108.2-4 of this title, except that deficiencies shall be curable.

§ 3110.5-3 Acquired lands.

(a) If the lands applied for lie within and conform to the rectangular system of public land surveys and constitute either all or a portion of the tract acquired by the United States, such lands shall be described by legal subdivision, section, township, range, and, if needed, meridian.

(b) If the lands applied for do not conform to the rectangular system of public land surveys, but lie within an area of the public land surveys and constitute the entire tract acquired by the United States, such lands shall be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest official survey corner, or a copy of the deed or other conveyance document by which the United States acquired title to the lands may be attached to the offer and referred to therein in lieu of redescribing the lands on the offer form. If the desired lands constitute less than the entire tract acquired by the United States, such lands shall be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest official survey corner. If a portion of the boundary of the desired lands coincides with the boundary in the deed or other conveyance document, that boundary need not be redescribed on the offer form, provided that a copy of the deed or other conveyance

document upon which the coinciding description is clearly identified is attached to the offer. That portion of the description not coinciding shall be tied by description on the offer by courses and distances between successive angle points into the description in the deed or other conveyance document.

(c) If the lands applied for lie outside an area of the public land surveys and constitute the entire tract acquired by the United States, such lands shall be described as in the deed or other conveyance document by which the United States acquired title to the lands, or a copy of that document may be attached to the offer and referred to therein in lieu of redescribing the lands on the offer form. If the desired lands constitute less than the entire tract acquired by the United States, such lands shall be described by courses and distances between successive angle points tying by courses and distances into the description in the deed or other conveyance document. If a portion of the boundary of the desired lands coincides with the boundary in the deed or other conveyance document, that boundary need not be redescribed on the offer form, provided that a copy of the deed or other conveyance document upon which the coinciding description is clearly identified is attached to the offer. That portion of the description not coinciding shall be tied by description in the offer by courses and distances between successive angle points into the description in the deed or other conveyance document.

(d) Where the acquiring agency has assigned an acquisition or tract number covering the lands applied for, without loss of priority to the offeror, the authorized officer may require that number in addition to any description otherwise required by this section. If the authorized officer determines that the acquisition or tract number, together with identification of the State and county, constitutes an adequate description, the authorized officer may allow the description in this manner in lieu of other descriptions required by this section.

(e) Where the lands applied for do not conform to the rectangular system of public land surveys, without loss of priority to the offeror, the authorized officer may require 3 copies of a map upon which the location of the desired lands are clearly marked with respect to the administrative unit or project of which they are a part.

§ 3110.5-4 Accreted lands.

Where an offer includes any accreted lands, the accreted lands shall be

described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the tract to which the accretions appertain.

§ 3110.5-5 Conflicting descriptions.

If there is any variations in the land description among the required copies of the official forms, the copy showing the date and time of receipt in the proper BLM office shall control.

§ 3110.6 Withdrawal of offer.

An offer for noncompetitive lease under this subpart may be withdrawn in whole or in part by the offeror. However, a withdrawal of an offer made in accordance with § 3110.1(b) of this title may be made only if the withdrawal is received by the proper BLM office after 60 days from the date of filing of such offer. No withdrawal may be made once the lease, an amendment of the lease, or a separate lease, whichever covers the lands so described in the withdrawal, has been signed on behalf of the United States. If a public domain offer is partially withdrawn, the lands retained in the offer shall comply with § 3110.3-3(a) of this title.

§ 3110.7 Action on offer.

(a) No lease shall be issued before final action has been taken on any prior offer to lease the lands or any extension of, or petition for reinstatement of, an existing or former lease on the lands. If a lease is issued before final action, it shall be canceled, if the prior offeror is qualified to receive a lease or the petitioner is entitled to reinstatement of a former lease.

(b) The authorized officer shall not issue a lease for lands covered by a lease which terminated automatically, until 90 days after the date of termination.

(c) The United States shall indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease, by signature of the authorized officer on the current lease form. A signed copy of the lease shall be delivered to the offeror.

(d) Except as otherwise specifically provided in the regulations of this group, an offer that is not filed in accordance with the regulations in this part shall be rejected.

(e) Filing an offer on a lease form not currently in use, unless such lease form has been declared obsolete by the Director prior to the filing shall be allowed, on the condition that the offeror is bound by the terms and

conditions of the lease form currently in use.

§ 3110.8 Amendment to lease.

After the competitive process has concluded in accordance with Subpart 3120 of this title, if any of the lands described in a lease offer for lands available during the 2-year period are open to oil and gas filing when the offer is filed but are omitted from the lease for any reason the original lease shall be amended to include the omitted lands unless, before the issuance of the amendment, the proper BLM office receives a withdrawal of the offer with respect to such lands or the offeror elects to receive a separate lease in lieu of an amendment. Such election shall be made by submission of a signed statement of the offeror requesting a separate lease, and a new offer on the required form executed pursuant to this part describing the remaining lands in the original offer. The new offer shall have the same priority as the old offer. No new application fee is required with the new offer. The rental payment held in connection with the original offer shall be applied to the new offer. The rental and the term of the lease for the lands added by an amendment shall be the same as if the lands had been included in the original lease when it was issued. If a separate lease is issued, it shall be dated in accordance with § 3110.3-2 of this title.

§ 3110.9 Future interest offers.

§ 3110.9-1 Availability.

A noncompetitive future interest lease shall not be issued until the lands covered by the offer have been made available for competitive lease under Subpart 3120 of this title. An offer made for lands that are leased competitively shall be rejected.

§ 3110.9-2 Form of offer.

An offer to lease a future interest shall be filed in accordance with this subpart, and may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

§ 3110.9-3 Fractional present and future interest.

Where the United States owns both a present fractional interest and a future fractional interest in the minerals in the same tract, the lease, when issued, shall cover both the present and future interests in the lands. The effective date and primary term of the present interest lease is unaffected by the vesting of a future fractional interest. The lease for the future fractional interest, when such interest vests in the United States, shall

have the same primary term and anniversary date as the present fractional interest lease.

§ 3110.9-4 Future interest terms and conditions.

(a) No rental or royalty shall be due to the United States prior to the vesting of the oil and gas rights in the United States. However, the future interest lessee shall agree that if he/she is or becomes the holder of any present interest operating rights in the lands:

(1) The future interest lessee transfers all or a part of the lessee's present oil and gas interests, such lessee shall file in the proper BLM office an assignment or transfer, in accordance with Subpart 3106 of this title, of the future interest lease of the same type and proportion as the transfer of the present interest, and

(2) The future interest lessee's present lease interests are relinquished, cancelled, terminated, or expired, the future interest lease rights with the United States also shall cease and terminate to the same extent.

(b) Upon vesting of the oil and gas rights in the United States, the future interest lease rental and royalty shall be as for any noncompetitive lease issued under this subpart, as provided in Subpart 3103 of this title, and the acreage shall be chargeable in accordance with § 3101.2 of this title.

Subparts 3111 and 3112 [Removed]

40. Subparts 3111 and 3112 are removed in their entirety.

41. Part 3120 is revised in its entirety to read:

PART 3120—COMPETITIVE LEASES

Subpart 3120—Competitive Leases

Sec.

3120.1 General.

3120.1-1 Lands available for competitive leasing.

3120.1-2 Requirements.

3120.1-3 Protests and appeals.

3120.2 Lease terms.

3120.2-1 Duration of lease.

3120.2-2 Dating of lease.

3120.2-3 Lease size.

3120.3 Nomination process.

3120.3-1 General.

3120.3-2 Filing of a nomination for competitive leasing.

3120.3-3 Minimum bid and rental remittance.

3120.3-4 Withdrawal of a nomination.

3120.3-5 Parcels receiving nominations.

3120.3-6 Parcels not receiving nominations.

3120.3-7 Refund.

3120.4 Notice of competitive lease sale.

3120.4-1 General.

3120.4-2 Posting of notice.

3120.5 Competitive sale.

3120.5-1 Oral auction.

3120.5-2 Payments required.

Sec.

- 3120.5-3 Award of lease.
- 3120.6 Parcels not bid on at auction.
- 3120.7 Future interest.
- 3120.7-1 Nomination to make lands available for competitive lease.
- 3120.7-2 Future interest terms and conditions.
- 3120.7-3 Compensatory royalty agreements.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Alaska National Interest Lands Conservation Act as amended (16 U.S.C. 3101 *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3120—Competitive Leases

§ 3120.1 General.

§ 3120.1-1 Lands available for competitive leasing.

All lands available for leasing shall be offered for competitive bidding under this subpart, including but not limited to:

(a) Lands in oil and gas leases that have terminated, expired, been cancelled or relinquished.

(b) Lands for which authority to lease has been delegated from the General Services Administration.

(c) If, in proceeding to cancel a lease, interest in a lease, option to acquire a lease or an interest therein, acquired in violation of any of the provisions of the act, an underlying lease, interest or option in the lease is cancelled or forfeited to the United States and there are valid interests therein that are not subject to cancellation, forfeiture, or compulsory disposition, such underlying lease, interest, or option shall be sold to the highest responsible qualified bidder by competitive bidding under this subpart, subject to all outstanding valid interests therein and valid options pertaining thereto. If less than the whole interest in the lease, interest, or option is cancelled or forfeited, such partial interest shall likewise be sold by competitive bidding. If no satisfactory bid is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold in accordance with section 27 of the Act by such other methods as the authorized officer deems appropriate, but on terms no less favorable to the United States than those of the best competitive bid received. Interest in outstanding leases(s) so sold shall be subject to the terms and conditions of the existing lease(s).

(d) Lands which are otherwise unavailable for leasing but which are subject to drainage (protective leasing).

(e) Lands included in any expression of interest or noncompetitive offer, except offers properly filed within the 2-year period provided under § 3110.1(b) of this title, submitted to the authorized officer.

(f) Lands selected by the authorized officer.

§ 3120.1-2 Requirements.

(a) Each proper BLM State office shall hold sales at least quarterly if lands are available for competitive leasing.

(b) Lease sales shall be conducted by a competitive oral bidding process.

(c) The national minimum acceptable bid shall be \$2 per acre or fraction thereof payable on the gross acreage, and shall not be prorated for any lands in which the United States owns a fractional interest.

§ 3120.1-3 Protests and appeals.

No action pursuant to the regulations in this subpart shall be suspended under § 4.21(a) of this title due to an appeal from a decision by the authorized officer to hold a lease sale. The authorized officer may suspend the offering of a specific parcel while considering a protest or appeal against its inclusion in a Notice of Competitive Lease Sale.

Only the Assistant Secretary for Land and Minerals Management may suspend a lease sale for good and just cause after reviewing the reason(s) for an appeal.

§ 3120.2 Lease terms.

§ 3120.2-1 Duration of lease.

Competitive leases shall have a primary term of 5 years.

§ 3120.2-2 Dating of leases.

All competitive leases shall be considered issued when signed by the authorized officer. Competitive leases, except future interest leases issued under § 3120.7 of this title, shall be effective as of the first day of the month following the date the leases are signed on behalf of the United States. A lease may be made effective on the first day of the month within which it is issued if a written request is made prior to the date of signature of the authorized officer. Leases for future interest shall be effective as of the date the mineral interests vest in the United States.

§ 3120.2-3 Lease size.

Lands shall be offered in leasing units of not more than 2,560 acres outside Alaska, or 5,760 acres within Alaska, which shall be as nearly compact in form as possible.

§ 3120.3 Nomination process.

The Director may elect to implement the provisions contained in §§ 3120.3-1 through 3120.3-7 of this title after review of any comments received during a period of not less than 30 days following publication in the *Federal Register* of notice that implementation of those sections is being considered.

§ 3120.3-1 General.

The Director may elect to accept nominations requiring submission of the national minimum acceptable bid, as set forth in this section, as part of the competitive process required by the act, or elect to accept informal expressions of interest. A List of Lands Available for Competitive Nominations may be posted in accordance with § 3120.4 of this title, and nominations in response to this list shall be made in accordance with instructions contained therein and on a form approved by the Director. Those parcels receiving nominations shall be included in a Notice of Competitive Lease Sale, unless the parcel is withdrawn by the Bureau.

§ 3120.3-2 Filing of a nomination for competitive leasing.

Nominations filed in response to a List of Lands Available for Competitive Nominations and on a form approved by the director shall:

(a) Include the nominator's name and personal or business address. The name of only one citizen, association or partnership, corporation or municipality shall appear as the nominator. All communications relating to leasing shall be sent to that name and address, which shall constitute the nominator's name and address of record:

(b) Be completed, signed in ink and filed in accordance with the instructions printed on the form and the regulations in this subpart. Execution of the nomination form shall constitute a legally binding offer to lease by the nominator, including all terms and conditions;

(c) Be filed within the filing period and in the BLM office specified in the List of Lands Available for Competitive Nominations. A nomination shall be unacceptable and shall be returned with all moneys refunded if it has not been completed and timely filed in accordance with the instructions on the form or with the other requirements in this subpart; and

(d) Be accompanied by a remittance sufficient to cover the national minimum acceptable bid, the first year's rental per acre or fraction thereof, and the administrative fee as set forth in

§ 3120.5-2(b) of this title for each parcel nominated on the form.

§ 3120.3-3 Minimum bid and rental remittance.

Nominations filed in response to a List of Lands Available for Competitive Nominations shall be accompanied by a single remittance. Failure to submit either a separate remittance with each form or an amount sufficient to cover all the parcels nominated on each form shall cause the entire filing to be deemed unacceptable with all moneys refunded.

§ 3120.3-4 Withdrawal of a nomination.

A nomination shall not be withdrawn, except by the Bureau for cause, in which case all moneys shall be refunded.

§ 3120.3-5 Parcels receiving nominations.

Parcels which receive nominations shall be included in a Notice of Competitive Lease Sale. The Notice shall indicate which parcels received multiple nominations in response to a List of Lands Available for Competitive Nominations, or parcels which have been withdrawn by the Bureau.

§ 3120.3-6 Parcels not receiving nominations.

Lands included in the List of Lands Available for Competitive Nominations which are not included in the Notice of Competitive Lease Sale because they were not nominated, unless they were withdrawn by the Bureau, shall be available for a 2-year period, for noncompetitive leasing as specified in the List.

§ 3120.3-7 Refund.

The minimum bid, first year's rental and administrative fee shall be refunded to all nominators who are unsuccessful at the oral auction.

§ 3120.4 Notice of competitive lease sale.

§ 3120.4-1 General.

(a) The lands available for competitive lease sale under this subpart shall be described in a Notice of Competitive Lease Sale.

(b) The time, date, and place of the competitive lease sale shall be stated in the Notice.

(c) The notice shall include an identification of, and a copy of, stipulations applicable to each parcel.

§ 3120.4-2 Posting of notice.

At least 45 days prior to conducting a competitive auction, lands to be offered for competitive lease sale, as included in a List of Lands Available for Competitive Nominations or in a Notice of Competitive Lease Sale, shall be posted in the proper BLM office having

jurisdiction over the lands as specified in § 1821.2-1(d) of this title, and shall be made available for posting to surface managing agencies having jurisdiction over any of the included lands.

§ 3120.5 Competitive sale.

§ 3120.5-1 Oral auction.

(a) Parcels shall be offered by oral bidding. The existence of a nomination accompanied by the national minimum acceptable bid shall be announced at the auction for the parcel.

(b) A winning bid shall be the highest oral bid by a qualified bidder, equal to or exceeding the national minimum acceptable bid. The decision of the auctioneer shall be final.

(c) Two or more nominations on the same parcel when the bids are equal to the national minimum acceptable bid, with no higher oral bid being made, shall be returned with all moneys refunded. If the Bureau reoffers the parcel, it shall be reoffered only competitively under this subpart with any noncompetitive offer filed under § 3110.1(a) of this title retaining priority, provided no bid is received at an oral auction.

§ 3120.5-2 Payments required.

(a) Payments shall be made in accordance with § 3103.1-1 of this title.

(b) Each winning bidder shall submit, by the close of official business hours, or such other time as may be specified by the authorized officer, on the day of the sale for the parcel:

(1) The minimum bonus bid of \$2 per acre or fraction thereof;

(2) The total amount of the first year's rental; and

(3) An administrative fee of \$75 per parcel.

(c) The winning bidder shall submit the balance of the bonus bid to the proper BLM office within 10 working days after the last day of the oral auction.

§ 3120.5-3 Award of lease.

(a) A bid shall not be withdrawn and shall constitute a legally binding commitment to execute the lease bid form and accept a lease, including the obligation to pay the bonus bid, first year's rental, and administrative fee. Execution by the high bidder of a competitive lease bid form approved by the Director constitutes certification of compliance with Subpart 3102 of this title, shall constitute a binding lease offer, including all terms and conditions applicable thereto, and shall be required when payment is made in accordance with § 3120.5-2(b) of this title. Failure to comply with § 3120.5-2(c) of this title shall result in rejection of the bid and

forfeiture of the monies submitted under § 3120.5-2(b) of this title.

(b) A lease shall be awarded to the highest responsible qualified bidder. A copy of the lease shall be provided to the lessee after signature by the authorized officer.

(c) If a bid is rejected, the lands shall be reoffered competitively under this subpart with any noncompetitive offer filed under § 3110.1(a) of this title retaining priority, provided no bid is received in an oral auction.

(d) Issuance of the lease shall be consistent with § 3110.7 (a) and (b) of this title.

§ 3120.6 Parcels not bid on at auction.

Lands offered at the oral auction that receive no bids shall be available for filing for noncompetitive lease for a 2-year period beginning the first business day following the auction at a time specified in the Notice of Competitive Lease Sale.

§ 3120.7 Future interest.

§ 3120.7-1 Nomination to make lands available for competitive lease.

A nomination for a future interest lease shall be filed in accordance with this subpart.

§ 3120.7-2 Future interest terms and conditions.

(a) No rental or royalty shall be due to the United States prior to the vesting of the oil and gas rights in the United States. However, the future interest lessee shall agree that if, he/she is or becomes the holder of any present interest operating rights in the lands:

(1) The future interest lessee transfers all or a part of the lessee's present oil and gas interests, such lessee shall file in the proper BLM office an assignment or transfer, in accordance with Subpart 3106 of this title, of the future interest lease of the same type and proportion as the transfer of the present interest, and

(2) The future interest lessee's present lease interests are relinquished, cancelled, terminated, or expired, the future interest lease rights with the United States also shall cease and terminate to the same extent.

(b) Upon vesting of the oil and gas rights in the United States, the future interest lease rental and royalty shall be as for any competitive lease issued under this subpart, as provided in Subpart 3103 of this title, and the acreage shall be chargeable in accordance with § 3101.2 of this title.

§ 3120.7-3 Compensatory royalty agreements.

The terms and conditions of compensatory royalty agreements involving acquired lands in which the United States owns a future or fractional interest shall be established on an individual case basis. Such agreements shall be required when leasing is not possible in situations where the interest of the United States in the oil and gas deposit includes both a present and a future fractional interest in the same tract containing a producing well.

PART 3130—OIL AND GAS LEASING—NATIONAL PETROLEUM RESERVE—ALASKA

42. The authority citation for Part 3130 is revised to read:

Authority: The Department of the Interior Appropriations Act, Fiscal year 1981 (42 U.S.C. 6508), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*).

§ 3134.1 [Amended]

43. Section 3134.1(a) is amended by inserting the words "in accordance with the provisions of § 3104.1 of this title" after the word "bond" in the first sentence, and by removing the word "special" in the two places it appears in this paragraph.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

44. The authority citation for Part 3160 is revised to read:

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Act of May 21, 1930 (30 U.S.C. 301-306), Act of March 3, 1909, as amended (25 U.S.C. 369), the Act of May 11, 1938, as amended (25 U.S.C. 396a-396g), the Act of February 28, 1891, as amended (25 U.S.C. 397); the Act of May 29, 1924 (25 U.S.C. 398); The Act of March 3, 1927 (25 U.S.C. 398a-398e); the Act of June 30, 1919, as amended (25 U.S.C. 399); R.S. 441 (43 U.S.C. 1457); see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321 *et seq.*); the Department of the Interior Appropriations Act, Fiscal Year 1981 (42 U.S.C. 6508); the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*); and the Indian Mineral Development Act of 1982 (25 U.S.C. 2102).

44a. Section 3160.0-5 is amended by redesignating paragraph (v) as paragraph (w), and by inserting a new paragraph (v) to read as follows:

§ 3160.0-5 Definitions.

(v) "Surface use plan of operations" means a plan for surface use, disturbance, and reclamation.

Subpart 3162—Requirements for Lessees and Operators

45. Section 3162.3-1 is amended by revising paragraphs (d) and (e), by redesignating paragraphs (f) and (g) as (h) and (i), respectively, by adding new paragraphs (f) and (g), and by revising newly redesignated paragraphs (h) and (i), all to read as follows:

§ 3162.3-1 Drilling applications and plans.

(d) The Application for Permit to Drill process shall be initiated at least 30 days before commencement of operations is desired. Prior to approval, the application shall be administratively and technically complete. A complete application consists of Form 3160-3 and the following attachments:

(1) A drilling plan, which may already be on file, containing information required by paragraph (e) of this section and appropriate orders and notices.

(2) A surface use plan of operations containing information required by paragraph (f) of this section and appropriate orders and notices.

(3) Evidence of bond coverage as required by the Department of the Interior regulations, and

(4) Such other information as may be required by applicable orders and notices.

(e) Each drilling plan shall contain the information specified in applicable notices or orders, including a description of the drilling program, the surface and projected completion zone location pertinent geologic data, expected hazards, and proposed mitigation measures to address such hazards. A drilling plan may be submitted for a single well or for several wells proposed to be drilled to the same zone within a field or area of geological and environmental similarity. A drilling plan may be modified from time to time as circumstances may warrant, with the approval of the authorized officer.

(f) The surface use plan of operations shall contain information specified in applicable orders or notices, including the road and drillpad location, details of pad construction, methods for containment and disposal of waste material, plans for reclamation of the surface, and other pertinent data as the authorized officer may require. A surface use plan of operations may be submitted for a single well or for several wells proposed to be drilled in an area of environmental similarity.

(g) For Federal lands, upon receipt of the Application for Permit to Drill or

Notice of Staking, the authorized officer shall post the following information for public inspection at least 30 days before action to approve the Application for Permit to Drill: the company/operator name; the well name/number; the well location described to the nearest quarter-quarter section (40 acres), or similar land description in the case of lands described by metes and bounds, or maps showing the affected lands and the location of all tracts to be leased and of all leases already issued in the general area; and any substantial modifications to the lease terms. Where the inclusion of maps in such posting is not practicable, maps of the affected lands shall be made available to the public for review. This information also shall be provided promptly by the authorized officer to the appropriate office of the Federal surface management agency, for lands the surface of which is not under Bureau jurisdiction, requesting such agency to post the proposed action for public inspection for at least 30 days. The posting shall be in the office of the authorized officer and in the appropriate surface managing agency if other than the Bureau. The posting of an Application for Permit to Drill is for information purposes only and is not an appealable decision.

(h) Upon initiation of the Application for Permit to Drill process, the authorized officer shall consult with the appropriate Federal surface management agency and with other interested parties as appropriate and shall take one of the following actions as soon as practical, but in no event later than 5 working days after the conclusion of the 30-day notice period for Federal lands, or within 30 days from receipt of the application for Indian lands:

(1) Approve the application as submitted or with appropriate modifications or conditions;

(2) Return the application and advise the applicant of the reasons for disapproval; or

(3) Advise the applicant, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed along with the date such final action can be expected.

The surface use plan of operations for National Forest System lands shall be approved by the Secretary of Agriculture or his/her representative prior to approval of the Application for Permit to Drill by the authorized officer. Appeals from the denial of approval of such surface use plan of operations shall

be submitted to the Secretary of Agriculture.

(i) Approval of the Application for Permit to Drill does not warrant or certify that the applicant holds legal or equitable title to the subject lease(s) which would entitle the applicant to conduct drilling operations.

§ 3162.3-2 [Amended]

46. Section 3162.3-2(a) is amended by removing the phrase "A plan proposing" at the beginning thereof, and replacing it with the phrase "A proposal for", and by adding at the end of the first sentence thereof the words "to injection. If there is additional surface disturbance, the proposal shall include a surface use plan of operations.", and by revising the word "plan" in the last sentence thereof to read "proposal".

§ 3162.3-3 [Amended]

46a. Section 3162.3-3 is amended by removing the words "proposed plan of operations" and substituting therefor the word "proposal", and by adding at the end thereof the sentence, "The proposal shall include a surface use plan of operations."

§ 3162.3-4 [Amended]

46b. Section 3162.3-4(c) is amended by removing the phrase "rehabilitated or restored" from the last sentence thereof and substituting therefor the word "reclaimed".

§ 3162.5-1 [Amended]

46c. Section 3162.5-1(b) is amended by removing the phrase "restore or rehabilitate" from the last sentence thereof and substituting therefor the word "reclaim".

Subpart 3163—Noncompliance and Assessments

§ 3163.1 [Amended]

47. Section 3163.1(a)(5) is amended by removing the words "and forfeiture declared under the surety bond" from the second sentence.

Subpart 3164—Special Provisions

48. Section 3164.3(b) is amended by removing the initial word "The" and replacing it with the words "Except for National Forest System lands, the * * *".

48a. Section 3164.3 is amended by adding at the end thereof the following new paragraph (c):

§ 3164.3 Surface rights.

(c) On National Forest System lands, the Forest Service shall regulate all surface disturbing activities in accordance with Forest Service

regulations, including providing to the authorized officer appropriate approvals of such activities.

PART 3180—[AMENDED]

Subpart 3184—[Removed and Reserved]

49. Subpart 3184 (consisting of § 3184.1) is removed and reserved.

§ 3184.1 [Removed and Reserved]

PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

50. The authority citation for Part 3200 is revised to read:

Authority: Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025).

Subpart 3206—Lease Bonds

51. Section 3206.1-1 is revised to read:

§ 3206.1-1 Bond obligations.

(a) A surety of personal bond conditioned upon compliance with the terms and conditions of the entire leasehold(s) covered by the bond shall be submitted by the lessee, operating rights owner (sublessee), or operator prior to commencement of drilling operations.

(b) Surety bonds shall be issued by qualified surety companies approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by:

(1) Certificate of deposit issued by a financial institution, the deposits of which are Federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the terms and conditions of the lease. The certificate shall explicitly state on its face the Secretarial approval is required prior to redemption of the certificate of deposit by any party;

(2) Cashier's check;

(3) Certified check;

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of a lease; or

(5) Irrevocable letter of credit issued by a financial institution, the deposits of which are Federally insured, for a specific term, identifying the Secretary as sole payee with full authority to demand immediate payment in case of default in the performance of the terms

and conditions of a lease. Letters of credit shall be subject to the following conditions:

(i) The letter of credit shall be issued only by a financial institution organized or authorized to do business in the United States;

(ii) The letter of credit shall be irrevocable during its terms. A letter of credit used as security for any lease upon which drilling has taken place and final approval of all abandonment has not been given, or as security for a statewide or nationwide lease bond, shall be forfeited and shall be collected by the authorized officer if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date;

(iii) The letter of credit shall be payable to the Bureau of Land Management upon demand, in part or in full, upon receipt from the authorized officer of a notice of attachment stating the basis therefor, e.g., default in compliance with the lease terms and conditions of failure to file a replacement in accordance with paragraph (c)(5)(ii) of this section;

(iv) The initial expiration date of the letter of credit shall be at least 1 year following the date it is filed in the proper BLM office; and

(v) The letter of credit shall contain a provision for automatic renewal for periods of not less than 1 year in the absence of notice to the proper BLM office at least 90 days prior to the originally stated or any extended expiration date.

§§ 3206.4, 3206.4-1, 3206.4-2, and 3206.4-3 [Removed]

52. Sections 3206.4, 3206.4-1, 3206.4-2, and 3206.4-3 are removed in their entirety.

§ 3206.5 [Redesignated as § 3206.4 and Revised]

53. Section 3206.5 is redesignated as § 3206.4 and revised to read:

§ 3206.4 Statewide bond.

In lieu of bonds required under this subpart, the lessee, operating rights owner (sublessee), or operator may furnish a bond in an amount of not less than \$50,000 for full statewide coverage for all geothermal leases in the applicable State.

§ 3206.6 [Redesignated as § 3206.5 and Revised]

54. Section 3206.6 is redesignated § 3206.5 and revised to read:

§ 3206.5 Nationwide bond.

In lieu of bonds required under this subpart, the lessee, operating rights

owner [sublessee], or operator may furnish a bond in an amount of not less than \$150,000 for full nationwide coverage for all geothermal leases.

55. Section 3606.6 is added to read as follows:

§ 3206.6 Unit operator's bond.

In lieu of individual lease, statewide, or nationwide bonds for operations conducted on leases committed to an approved unit agreement, the unit operator may furnish a unit operator bond in the manner set forth in § 3206.1-1 of this title. The amount of such a bond shall be determined by the authorized

officer. The format for such a surety bond is set forth in § 3286.2 of this title. Where a unit operator is covered by a nationwide or statewide bond, coverage for such a unit may be provided by a rider to such bond specifically covering the unit and increasing the bond in such amount as may be determined appropriate by the authorized officer.

**PART 3280—GEOTHERMAL
RESOURCES UNIT AGREEMENTS—
UNPROVEN AREAS**

56. The authority citation for Part 3280 is revised to read:

Authority: Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025).

Subpart 3284 [Removed and Reserved]

57. Subpart 3284 (consisting of § 3284.1) is removed and reserved.

§ 3284.1 [Removed and Reserved]

[FR Doc. 88-13680 Filed 6-16-88; 8:45 am]

BILLING CODE 4310-84-M

Test Report

Friday
June 17, 1988

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 405, 442, and 488
Medicare and Medicaid; Long-Term Care
Survey; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Care Financing Administration****42 CFR Parts 405, 442, and 488****(HSQ-149-F)****Medicare and Medicaid; Long-Term Care Survey****AGENCY:** Health Care Financing Administration (HCFA), HHS.**ACTION:** Final rule.

SUMMARY: This final rule amends the Medicare and Medicaid regulations to require that the State survey agencies use the survey methods and procedures prescribed by HCFA and forms contained in regulations. The regulations define the principles on which Medicare and Medicaid survey methodologies are based and the required elements of a skilled nursing facility (SNF) or intermediate care facility (ICF) survey. This rule is in response to a court order.

EFFECTIVE DATE: These regulations are effective July 18, 1988.

FOR FURTHER INFORMATION CONTACT: Helene Fredeking, (301) 966-7304.

SUPPLEMENTARY INFORMATION:**Background**

On July 1, 1987, we published in the *Federal Register*, at 52 FR 24752, a proposed rule (NPRM) to solicit comments on proposed changes to the regulations on the survey and certification process for nursing facilities. A survey is an onsite inspection of a nursing facility conducted by State surveyors. The survey and certification process measures facility compliance with health and safety requirements contained in the conditions of participation found in regulations at 42 CFR Part 405, Subpart S for Medicare, and 42 CFR Part 442, Subpart C for Medicaid. The proposed regulations responded to a U.S. District Court decision on March 24, 1987, *Estate of Smith v. Bowen*, 656 F. Supp. 1093 (D. Colo. 1987), in which the court ordered the Secretary to publish by June 1, 1987 an NPRM consistent with the views expressed in the order. (On June 1, the court extended the publication date to July 1, 1987.) The court directed us to specify clear requirements in the regulations that State surveyors could follow.

In issuing its ruling, the court found that an earlier rule published June 13, 1986, at 51 FR 21550, "Medicare and Medicaid Programs—Long-Term Care Survey" was invalid due to an inadequate NPRM and flaws in the

rulemaking procedure. The court ruled that the NPRM, published October 31, 1985, at 50 FR 45584, was inadequate because it did not include as a part of the regulations text "the guidelines and forms that constitute the system," information that the court concluded was "required for meaningful comment." The court also found that the rule itself was inadequate because it did not include details of the survey methodology, even though we had included this material in appendices to the preamble to the rule. Procedural flaws cited by the court include an insufficient 60-day comment period, and the Secretary's failure to extend the comment period despite numerous requests to do so. Finally, the court ruled that the statement of basis and purpose of the rule was flawed because, in its judgment, we failed to provide a sufficient description in the NPRM, or to provide an adequate opportunity for comment.

On February 18, 1988, the court ordered that we issue a final rule addressing its original concerns. It further ordered that the survey forms, procedures, and guidelines be modified as appropriate in light of public comment and incorporated in the regulations by June 17, 1988.

Related Activities

The *Smith v. Bowen* court case originated in 1975 when a class action was filed on behalf of residents in a Colorado nursing home. The plaintiffs claimed that the Secretary had failed to carry out a duty to ensure that Medicaid recipients in nursing facilities were actually receiving high quality care. The court's order that we publish final regulations describing and codifying the new long term care survey process is the latest development in this case. However, the introduction of this process constitutes only a first step in HCFA's efforts to improve quality of care in nursing homes. Although we are publishing this final rule now, in compliance with the court's order, we are also in the process of instituting more far-reaching changes in the nursing home conditions of participation and enforcement regulations that underly the long term care survey process. As described below, these changes are in line with the plaintiffs' concerns and will eventually result in further revision to the survey process.

In 1983, we contracted with the Institute of Medicine to study Federal regulations affecting long term care facilities and recommend changes that might enhance the ability of the regulatory system to assure that residents receive satisfactory care. The

study concluded in 1986 with a report that stressed the need to develop new regulations that focus on actual delivery of care and the results of that care. Based on those findings, we developed proposed regulations revising both the conditions of participation for long term care facilities and the procedures for enforcing these requirements.

On October 16, 1987, we published in the *Federal Register* proposed regulations titled, "Conditions of Participation for Long Term Care Facilities" (52 FR 38582). These regulations incorporated the outcome-oriented approach and many other recommendations of the Institute of Medicine study on long term care issues. On November 18, 1987, we published in the *Federal Register* proposed regulations titled, "Survey and Certification of Health Care Facilities" (52 FR 44300). These regulations detailed how State survey agency personnel would enforce the requirements proposed in the conditions. Together, the conditions of participation and the enforcement regulations would revamp the long term care requirements under Medicare and Medicaid to be a resident-oriented system capable of consistent implementation by States.

While we were still considering public comments on both proposed regulations, on December 22, 1987, Congress enacted the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Pub. L. 100-203, which contains numerous provisions affecting the nursing facility conditions of participation requirements, the enforcement requirements, and the survey process. Many of these provisions ratify items included in our proposed regulations. Some are effective on enactment, while others are effective in 1990, and require that we develop revisions to regulations in the near future. A new survey process is required by OBRA '87, effective in 1990. In addition, due to the new statutory provisions, we are withdrawing our proposed rule on Survey and Certification of Health Care Facilities (52 FR 44300), and will publish a new proposed rule incorporating the OBRA '87 provisions.

Our progress in publishing final regulations has been slowed by the widespread interest in the issues evidenced by the large volume of public comments on the proposed regulations.

We are considering the public comments and, concurrently, analyzing the provisions of OBRA '87.

In the *Smith v. Bowen* case, the court ordered that we publish the final survey process rules by June 17, 1988. We continue to believe that, since the

survey instrument measures compliance with the conditions of participation, changes to the conditions of participation are necessary to fully establish a resident-oriented system. We are developing final rules on conditions of participation for long term care facilities to accomplish this. In the meantime, we are complying with the court order by publishing these regulations, and we are planning additional revisions to the survey process rules at a later date after we issue a final rule that revises the conditions of participation.

Discussion of Comments

We received a total of 80 letters of comment in response to the proposed regulations. The comments came from State health departments and survey agencies, provider organizations, consumer advocate groups, professional groups, and concerned individuals. Because commenters addressed all aspects of the proposed rule and its appendices, as well as a number of other issues outside the purview of this rule (e.g., the need for new nursing home conditions of participation and enforcement procedures, and higher nursing home reimbursement levels), we are providing a brief summary of the pertinent provisions of the NPRM before the comments and responses.

Commenters generally expressed support for those changes that more closely resembled a resident-centered outcome-oriented survey process in nursing homes. In addition to general comments on the contents of the proposed rule and the survey methodology, commenters offered nearly 600 specific suggestions for changes to the various appendices (Appendices A, B, and C—the Survey Report Forms, Appendix D—the Procedural Guidelines, and Appendix E—the Care Guidelines). Although some of the suggestions addressed major issues, most addressed minor technical changes or language modifications to discrete elements of one or more of the appendices.

We considered each of the individual suggestions in the development of this final rule. Based on the suggestions, we made numerous changes to the Survey Report Forms, the Procedural Guidelines and the Care Guidelines. This section concludes with a discussion of comments and responses on each of these components of the survey process. Due to the volume of the suggestions, and their generally technical and limited nature, we have not addressed each suggestion on an individual basis. Instead, we have employed the following approach:

1. Identify and address major issues or recurring issues raised by commenters in regard to any of the appendices.
2. For those issues of a more technical or limited scope, discuss our general criteria for adopting or not adopting the suggested changes in the appendices. We have developed coded charts that display the specific comments on the appendices as they appeared in the proposed rule published July 1, 1987, and our decision to change or not to change each of those provisions. These charts are available from HCFA on request.

As noted above, OBRA '87 and the revised conditions of participation for long term care facilities will implement substantive changes to the nursing home requirements and corresponding changes to the long term care survey process. Several commenters proposed that HCFA again convene work groups of State, industry and consumer representatives to assist in making the needed changes in the survey process. One major consumer advocacy organization, referring to HCFA's formation of work groups prior to national implementation of the new survey process in 1986 stated:

The periodic work meetings * * * were quite valuable for consumers, providers, health care professionals, and others. We urge you to reestablish this procedure which leads to a more enlightened public participation in the regulatory process. It is our firm belief that work sessions which include all affected parties result in more realistic proposals, which at the same time can result in higher quality standards and more effective implementation * * *

A major nursing home organization also supported work groups, and a State survey agency and a large nursing home corporation recommended the formation of a task force to revise the long term care survey process components.

We concur with these recommendations. Our past efforts in utilizing a work group composed of State survey agency, industry, and consumer representatives resulted in significant contributions to the current process. In light of the often conflicting nature of comments received, a work group approach will facilitate a more effective and consensus-based reworking of the survey process components than is possible under this final rule. We know from past experience that obtaining consensus-based input is invaluable particularly in such areas as forms design, the dietary services and meal planning areas of the Care Guidelines, and in refining major procedural aspects of the survey process. Accordingly, we will subject many of the comments received to the

further review of such a work group as the first step in initiating process refinements that will be required under OBRA '87 and the revised conditions of participation.

I. Comments on the Text of the Regulations

In the proposed rule published July 1, 1987, we revised § 405.1906, which deals with survey agency determinations of nursing facility compliance with the Medicare conditions of participation, and § 442.30, which deals with survey agency determinations of nursing facility compliance with the Medicaid requirements. To both sections we added specific principles to which a State agency must adhere in determining facility compliance with the conditions of participation. We also included in the text of the regulations specific elements of a survey. Under our proposal, a survey must consist of the following eight elements:

- (1) An entrance conference;
- (2) A resident-centered tour of the facility;
- (3) An in-depth review of a sample of residents including observation, interview and record review;
- (4) Observation of the preparation and administration of drugs for a sample of residents;
- (5) Evaluation of a facility's meals, dining areas and eating assistance procedures;
- (6) A description in the survey report of all deficiencies found during the survey;
- (7) An exit conference; and
- (8) Follow-up surveys when deficiencies are cited on the initial survey.

Note to readers: Section 405.1906 has been redesignated in this final rule as § 488.26.

Comment: Many commenters expressed support for some or all of the regulatory principles for survey agencies spelled out in §§ 405.1906(b) and 442.30(a)(5). Five commenters made specific suggestions for changing these survey principles. The substantive comments include the following:

- Three commenters suggested wording changes to §§ 405.1906(b)(2) and 442.30(a)(5)(ii) to emphasize that surveyors should be observing not just the provision of care and services, but also the results of care in assessing whether such care meets residents' needs. In addition, one commenter suggested that this principle specify that interviews with residents be cited as a means for determining compliance.

- One commenter noted that § 405.1906(b)(2), which emphasizes the

review of resident outcomes in making compliance determinations, should not apply to all Medicare providers and suppliers. The commenter pointed out that outcome-oriented survey procedures might be "difficult if not impossible to do in many supplier types."

- Two commenters recommended specific additions to §§ 405.1906(b)(3) and 442.30(a)(5)(iii), which relate to the continuing importance of surveyor judgment in determining compliance. One commenter requested that the regulations specify which professional disciplines can serve as surveyors. The other commenter suggested the addition of a statement prohibiting surveyors from providing consultation to facility staff.

- Two commenters also suggested several survey principles that should be added to these sections of the regulations. These suggestions are addressed below under "Additional Regulatory Requirements."

Response: First, we agree that in our outcome-oriented survey process, surveyors must consider the resultant effects of care on residents in assessing facility compliance. Thus, we are amending § 405.1906(b)(2) (redesignated in this final rule as § 488.26(b)(2)) and § 442.30(a)(5)(ii) to clarify that surveyors will not only observe the actual provision of care and services, but also the effects of that care. As revised, the paragraph reads as follows:

The survey process uses resident outcomes as the primary means to establish the compliance status of facilities. Specifically, surveyors will directly observe the actual provision of care and services to residents, and the effects of that care, to assess whether the care provided meets the needs of individual residents.

Not only will this change emphasize further the importance of care outcomes, but it also achieves internal consistency among these sections of the regulations and the corresponding subsequent § 488.26(d) (as redesignated from § 405.1906) and § 442.30(a)(6). Specific survey tasks, such as interviewing residents, are addressed in § 488.26(e) (as redesignated from § 405.1906) and § 442.30(a)(7) and are not appropriate for inclusion in this area.

Second, it is correct that outcome-oriented surveys may not be possible in all supplier types. However, we have not changed the overall regulatory principle because we wish to stress the outcome orientation of Federal survey procedures. Surveyors should be cognizant of this general principle in carrying out the specific procedures spelled out in the State Operations Manual of each provider and supplier.

Finally, we have not made any changes in the language regarding surveyor judgment. The issue of surveyor consultation is a complicated one which is addressed at length in the procedural guidelines. Our position on surveyor disciplines is stated in response to comments in section II.B. of this preamble.

Comment: Only one commenter raised an objection to the requirement contained in §§ 405.1906(c) and 442.20(a)(4) that State survey agencies must use the survey methodology prescribed by HCFA for making determinations as to provider compliance. The commenter felt that this requirement should not go into effect until the survey process has been refined to the satisfaction of the State survey agencies. Two commenters recommended that the text of the regulations be amended to require that Federal surveyors employ the prescribed survey process. Another commenter suggested that the regulations not specify the numerical sections of the State Operations Manual where survey guidelines are spelled out, in order to provide maximum flexibility for future revisions or relocations of this material.

Response: We believe it is essential that all States employ a uniform, defined survey process in making compliance determinations. We have been working and will continue to work with the State agencies in making future refinements to the survey methodology.

Federal surveyors use the identical survey protocol as the State surveyors. However, we view the Regional Office Manual, rather than the Code of Federal Regulations, as the appropriate format for issuing internal operating instructions to Federal surveyors.

As recommended, we have deleted from § 488.26(c) (as redesignated from § 405.1906) and § 442.30(a)(4) the reference to a specific section of the State Operations Manual since it is neither feasible nor desirable to reference permanently all survey methods, procedures and forms at one State Operations Manual section.

Comment: With one exception, all commenters either endorsed or had no objection to the eight required survey elements specified in the regulations at §§ 405.1906(e) and 442.30(a)(7). One commenter requested that the requirement for entrance and exit conferences be deleted because a facility could effectively invalidate a survey by refusing to take part in one or both of the survey components. Other comments on these provisions include the following:

- One commenter suggested that a "pre-exit conference" be required to

inform the facility of preliminary findings prior to the exit conference. Another commenter said that regulations should provide that surveyors leave a listing of findings with the facility at the conclusion of the survey, particularly in cases in which there are standards or conditions of participation, or both, out of compliance.

- One commenter recommended that the regulations prohibit facility staff from accompanying surveyors during the inspection process; another wanted a requirement that a facility representative accompany surveyors.

- One commenter stated that HCFA should not prescribe the order in which the required survey elements be carried out.

- One commenter recommended that the wording as to when follow-up surveys must be conducted be changed in § 405.1906(e)(8) to conform with that of § 442.30(a)(7)(viii).

- Finally, one commenter suggested a series of additions to the survey elements, incorporating requirements such as meeting with a group of residents, privacy during resident interview, review of appropriateness of medication regimens, and sharing of survey finding with residents.

Response: After considering fully the commenters' concerns, we have decided to retain the eight required survey elements in the final regulations, including the entrance and exit conferences. The primary purpose of the entrance and exit conferences is to keep the facility fully informed as to planned survey procedures and preliminary results. We are confident that survey findings would still be valid should the facility choose not to cooperate at the entrance or exit conferences or both.

We do not believe it appropriate to either prohibit facility staff from accompanying surveyors or require staff to accompany surveyors. Guidelines leave this matter entirely to the preference of the surveyors, with the sole exception that interviews with residents should be conducted in private so that residents can speak freely. Also, we have not prescribed the order in which surveyors must carry out the survey tasks.

As recommended, we have changed the wording of § 488.26(e)(8) (as redesignated from § 405.1906) regarding follow-up surveys to conform with that of proposed § 442.30(a)(7)(viii). Both sections will now require "follow-up surveys as appropriate." We have not, however, made any additions to the eight required survey elements. Each of the additions suggested by the commenter is a component of one of the

survey elements and is addressed in the procedural guidelines.

Comment: In addition to the regulatory recommendations that have been addressed above, seven commenters had other suggestions for new or expanded regulatory requirements. These include the following:

- The regulations should require that all surveys be unannounced;
- The language in § 405.1906(a) regarding evaluation of a provider's compliance with the standards within a condition should be amended;
- The regulations should require surveyors to interview the family members of residents; and
- The regulations should require that States provide a uniformly-determined level of reimbursement to all nursing homes.

Response: The requirement for unannounced surveys is contained in section 2700 of the State Operations Manual. In response to comments, we are incorporating the recommendation on unannounced surveys by adding language to the procedural guidelines to emphasize the need to conduct unannounced surveys. As modified, the guidelines are now located at § 488.110. Certain provisions in OBRA 1987 have an impact on both unannounced surveys and the introductory regulatory language on compliance determinations. We intend to issue a new proposed rule that incorporates the OBRA 1987 provisions. In the meantime, we have withdrawn our proposed rule on Survey and Certification of Health Care Facilities, published in the *Federal Register* on November 18, 1987 at 52 FR 44300.

Concerning the interview of family members, we recognize the potential value of the views of residents' family members. Although we cannot mandate that surveyors interview family members since family members may not always be present, the guidelines recommend that surveyors use this valuable source of information. The last comment, regarding nursing home reimbursement, is beyond the scope of this rule.

Comment: Twenty-six commenters (mainly State survey agencies and provider groups) stated that the proposed survey system does not provide sufficient guidance to surveyors on when resident care fails to meet regulatory standards and when care problems constitute enforceable deficiencies. They cited the need for substantive standards of care that are "clear, specific and adopted in regulations." They felt that neither the proposed regulations nor the

accompanying guidelines sufficiently addressed this issue. Specific concerns raised included:

- Lack of quantifiable standards for determining deficiencies,
- Lack of criteria for classifying severity of deficiencies, and
- Over-reliance on surveyor judgment.

Commenters stated that these types of problems raised doubts about the reliability of the new survey process when used by a number of different surveyors.

Response: This rule addresses HCFA's prescribed survey methodology and the related duties of the State survey agencies. It is not the appropriate vehicle for establishing regulatory standards of care for nursing homes. These new survey regulations, survey forms and guidelines are rooted in the current nursing home requirements, which are the conditions of participation for SNFs and standards for ICFs, which are found at 42 CFR Part 405, Subpart S, and Part 442, Subpart C. Within the parameters of the existing quality of care standards, we have provided surveyors with as much detailed guidance as possible for making determinations on facility compliance.

We recognize the need for increased objectivity in decisionmaking criteria in order to enhance the overall reliability of the survey process. That is why the new process requires that surveyors employ a highly structured survey methodology, including stratified sampling based on specific care needs, to better ensure that deficiency citations have a resident-specific basis. However, deficiency citation remains primarily a matter of surveyor judgment. Our long-range objective is to establish quantifiable norms and standards for use by surveyors on a national basis for determining deficiencies. We will pursue this goal through development of a standardized system for resident assessment that can provide the base-line data needed to make determinations regarding facility performance based on resident outcomes.

The proposed conditions of participation for long term care facilities (published in the *Federal Register* on October 16, 1987) would require annual resident assessments in all participating nursing facilities. This would facilitate the development of more objective criteria for deficiency determinations.

Comment: Three commenters supported our approach of publishing the survey forms and guidelines as appendices to the proposed rule rather than incorporating them in the regulations. Three other commenters felt

that the forms and guidelines should be in the regulations, with one of these commenters stating that the care guidelines impose requirements on facilities beyond the scope of the regulations. Finally, 15 State agencies expressed the belief that the court's order in *Smith v. Bowen* required the Secretary to publish the forms and guidelines as regulations. The State agencies did not take a position on this issue, except to agree that the care guidelines must be published as regulations to the extent that they "expand substantive regulatory requirements". They also raised the overall question of the legal status of the care guidelines.

Response: Our intent in the proposed rule was to set forth the survey forms and guidelines for public comment. In this final rule we are publishing, as part of the text of the regulations, the long term survey report forms, procedural guidelines, and care guidelines, as required by the court order.

Comment: Twenty-two commenters believed that there was a need to change the regulatory requirements for nursing homes, and many stated that the publication of new survey regulations was premature in view of the Department's proposed changes in the underlying regulatory requirements. Commenters pointed out that survey forms and guidelines would need to be revised in accordance with the new conditions of participation when the conditions are published as a final rule, and stated that the public should have an opportunity to participate in the refinement process.

Response: The publication of these survey regulations is in accordance with the court order in *Smith v. Bowen* of February 18, 1988. We agree that there is a need to revise the conditions of participation in the regulations and, as noted above, we have published proposed regulations to this effect. When the new conditions of participation are published as final regulations, we will make necessary refinements to the survey process, forms and guidelines. In order to ensure the greatest involvement of concerned parties, we intend to establish a work group consisting of representatives of all major involved parties to assist us in this process.

II. General Comments on Survey Methodology

The following comments are on the survey methodology as presented in the preamble discussion (pp. 24753-24758) and the appendices (pp. 24761-24888) to the proposed rule. The appendices

included the actual long term care survey forms, Parts A and B, the Care Guidelines, and the Procedural Guidelines.

A. Failure to Incorporate IoM Recommendations

Comment: Eighteen commenters indicated that the proposed changes in the survey system do not go far enough in implementing recommendations of the Institute of Medicine's 1986 report on quality of care in nursing homes. Specific concerns included:

- Failure to devise a two-stage survey approach (i.e., a short standard survey for all facilities, with an extended survey for facilities that performed poorly on "key indicators");
- Need to develop a standardized resident assessment system for use by nursing homes; and
- Lack of true outcome measurement in the new survey system.

Response: This final rule responds to the February 18, 1988 court order discussed above, and does not represent an end to our efforts to improve the survey process in line with IoM's recommendations.

OBRA '87 mandates the implementation of both a two-stage survey approach and standardized resident assessments by October 1, 1990. Over time, the standardized assessment data will provide the longitudinal, resident-specific information needed to incorporate true outcome measurement into the Federal quality assurance system.

B. Surveyor Training, Qualifications and Team Composition

Comment: Twenty-three commenters cited the importance of adequate surveyor training in using the new survey methodology. The majority of these commenters were State survey agencies and objected to HCFA's training approach, which relies on a group of Federally-trained surveyors from each State to train remaining surveyors. Other commenters suggested that HCFA should:

- Place increased training emphasis on resident rights issues and techniques for resident interviews;
- Establish basic and continuing education, and training requirements for surveyors;
- Increase HCFA's training program from 1 to 2 weeks and devote more time to uniform deficiency citation; and
- Make sure new surveyors are trained in Part A of the survey process (the administrative and procedural requirements).

Response: We do not have sufficient resources to provide direct Federal

training for approximately 3,000 long term care surveyors. We will develop and provide detailed materials and methodologies to States and Federal Regional Offices for training purposes. Included in these materials will be an instructor's manual, which will provide step-by-step directions on how to use the materials and implement the training programs. We will provide at least four sessions for survey agency and Regional Office personnel to instruct them on the new regulations and survey procedures and the use of the training materials. In response to the other suggestions on training:

- Techniques for resident interview will continue to be an integral part of training courses and training materials. We will focus more attention on resident rights when we train surveyors on the new regulations.
- Requirements for basic training are established. Each surveyor is required to complete a HCFA orientation program provided at the State level and to attend one of three HCFA basic courses depending on the surveyor's job responsibility. The opportunity for continuing education is provided through a series of specialty courses offered annually.
- In 1980, a 2-week basic training program was reduced to one week with the implementation of the new orientation program at the request of the State survey agencies. The new orientation program was designed to provide surveyors with information on specific regulatory requirements and survey procedures necessary to determine compliance with these regulations. The 1-week basic course is designed to teach and enhance skills necessary to conduct a comprehensive survey. The reduction from a 2-week to 1-week course was strongly urged by State agency directors.
- As part of the orientation program, new surveyors are trained in Part A of the survey process.

Comment: Twenty-six commenters addressed the closely related issues of surveyor qualifications and team composition. Nineteen commenters wanted HCFA to establish regulatory team composition requirements, with the most common suggestion being that teams include at least one registered nurse and other professional disciplines as appropriate. Other suggestions were that teams be multi-disciplinary, that a facility administrator be on each team, and that all surveyors be health professionals with "generalist" surveyors not permitted. Seven commenters recommended that HCFA establish minimum qualification requirements for surveyors, such as

professional credentials, geriatric education, training and experience requirements, and proficiency testing.

Response: We contract with the States to conduct long-term care surveys, through agreements established in accordance with section 1864(a) of the Social Security Act (the Act). These agreements provide the States with the discretionary power to set their own team composition and surveyor qualification standards. However, current survey guidelines specify that survey teams should consist of at least one registered nurse and other disciplines, as appropriate.

OBRA '87 requires minimum qualifications be established for individual surveyors and requires that multi-disciplinary survey teams include a registered professional nurse by October 1, 1990. We will make any changes in regulations, agreements with States, and procedures that are necessary to implement these provisions timely.

C. Coordination with Ombudsman

Comment: Twenty-one commenters urged us to require that State survey agencies consult with long-term care ombudsman programs prior to each survey. Some of these commenters also suggested that survey agencies be required to consult with State fraud control units and use available complaint information as standard parts of the survey process.

Response: We support the exchange of information between long term care ombudsman organizations and the State survey agencies. We will develop regulations to implement the OBRA '87 provision that, beginning October 1, 1990, requires each State survey agency to notify the State ombudsman of a survey finding of noncompliance with any Federal requirement.

HCFA's current complaint procedures already require that State agencies (1) investigate all complaints against Medicare or Medicaid certified facilities; and (2) in preparation for a survey, review any relevant information concerning the facility, including complaints. OBRA '87 also mandates that by October 1, 1990, each State ensure that its State Medicaid fraud and abuse control unit has access to all information of the State survey agencies. We believe that current procedures, combined with the OBRA '87 provision, will produce sufficient consultation and exchange of information between the State survey agencies and the fraud control units.

D. Coordination of Survey Process and Inspection of Care (IoC) Review

Comment: Of the twenty-one commenters who raised the issue of coordination of survey process and inspection of care review, eighteen felt that HCFA should require the integration of the two review processes on a national basis. They also urged that HCFA enforce the current requirement in 42 CFR 456.612(c) that Medicaid agencies share IoC data with survey agencies. Other commenters expressed the general need for more coordination between survey and IoC reviews, and one respondent stated that HCFA should mandate that the new survey process would suffice to meet a State's obligations to conduct IoC reviews.

Response: We have long supported the integration of the survey process with IoC reviews and have encouraged States to integrate the two processes. However, current law does not authorize us to require integration or to allow States to meet their IoC obligations via the survey process. Since Congress has provided in OBRA '87 that, effective October 1, 1990, States will no longer be required to conduct IoC reviews in SNFs and ICFs, further attempts by HCFA to pursue integration would be pointless. Finally, we believe that we are properly enforcing the data-sharing requirement in § 456.612(c), and we will do so as long as it remains in effect. We are not aware of any instance in which a Medicaid agency has refused to share IoC data with a survey agency.

E. State Experimentation

Comment: Sixteen commenters recommended that HCFA continue to permit States to carry out demonstrations or experiments of innovative survey approaches and incorporate findings from such experiments into the national survey process.

Response: We remain receptive to State proposals for innovative survey approaches. Approval of such proposals depends primarily on their potential for improving the survey process consistent with our long-term national objectives, such as the development of a two-stage survey process and the eventual establishment of longitudinal outcome norms that can provide a more objective means of measuring nursing home performance. The State of New York is now conducting a combined survey and IoC demonstration project. In addition, we are now in the process of selecting at least 5 States to participate in a large-scale demonstration project focusing on the integration of case-mix payment and

quality assurance systems in nursing homes. Nearly thirty States have expressed interest in this demonstration, which will undoubtedly have significant implications for the survey and certification process.

F. National Data Collection

Comment: Fifteen State agencies emphasized the importance of an automated national data system for collecting information from the new survey process. At the same time, they recommended that States be allowed exemptions from use of the forms as long as the States still collect all required information.

Response: Since we already have in place an automated national system for the collection of facility performance and aggregate resident data, the Medicare/Medicaid Automated Certification System, (MMACS), we assume that commenters are suggesting that an automated system is needed for the collection of data on individual residents. We are committed to the development of a national data base of this type as the end product of our efforts to collect standardized assessment information on all residents of certified nursing homes. However, to maintain a nationally uniform and consistent process and to preserve the integrity of the national data base, granting exemptions would pose serious problems in any attempt to use uniform national data for trend, fiscal, and research purposes.

G. Survey Agency Funding

Comment: Two consumer advocacy groups stated that the quality of the new survey system would depend largely on the allocation of sufficient additional resources to allow surveyors ample time to implement the new resident-centered process.

Response: We believe that resource allocations to the States are sufficient to allow surveyors to carry out the new survey process in the prescribed manner. In fiscal year 1987, we substantially raised all State allocations to accommodate an increase in the required size of the resident sample that surveyors must review.

H. Medicaid Discrimination

Comment: Four respondents, including three national consumer advocacy groups, noted that the new survey methodology fails to cover the issue of discrimination by nursing homes against Medicaid beneficiaries. They recommended that HCFA incorporate this issue into the survey process.

Response: HCFA agrees that the issue of possible discrimination against

Medicaid beneficiaries should be addressed to the extent possible in the survey process. The current survey process does investigate this area in the course of reviewing compliance with resident rights, transfer and discharge requirements, in addition to the complaint investigation procedures noted above. As these commenters recommended, however, changes to both the procedural and care guidelines are needed to ensure that this issue is more explicitly addressed in each nursing home survey. This can best be achieved by a consensus-based task force approach, which we plan to use in making additional revisions to the survey process rules after we issue a final rule that revises the conditions of participation.

I. Rights of Nursing Homes

Comment: Two commenters felt that the proposed regulations do not provide sufficient opportunity for nursing homes to disagree with and appeal survey findings. They suggested the establishment of a provider ombudsman and penalties against survey agencies for invalid surveys.

Response: These regulations specifically address the duties of the State survey agencies in carrying out certification surveys. Thus, this is not the appropriate forum for these recommendations. However, we believe that current Medicare and Medicaid regulations (most prominently 42 CFR Part 405, Subpart O and 42 CFR Part 442) provide nursing homes with full reconsideration and appeal rights.

J. Changes in Application of Surveys

Comment: One commenter recommended that HCFA allow deemed status to hospital-based SNFs accredited by the Joint Commission for Accreditation of Health Organizations, while another suggested that the new survey methodology be applied to swing bed hospitals.

Response: These issues are outside the scope of this rule.

K. Survey Focus Too Limited

Comment: Three respondents expressed the concern that the new survey's focus on resident outcomes is not sufficiently comprehensive. They believe that although surveyors are required to identify and assess the care of residents with conditions that are presumed to have poor outcomes (such as decubitus ulcers and contractures), surveyors are not instructed to look into the absence of good outcomes (such as increased functioning through physical therapy or other rehabilitation efforts).

Response: The focus of the survey process is on whether or not appropriate care is furnished to meet each resident's needs, including needs such as increased functioning whenever possible. Both the survey forms and guidelines address the absence of good outcomes as an issue for surveyor review, specifically under the areas of Restorative Nursing, Specialized Rehabilitative Services, Social Services, Activities and various Plan of Care requirements. We also implemented changes in the sampling methodology to ensure that the survey process does not focus too narrowly on the presence of negative outcomes.

L. Regulatory Impact

Comment: Two State provider organizations disputed our assessment in the proposed rule that the new survey process would not cause any additional economic burden on nursing homes. The commenters claimed that increased documentation requirements and deficiency "avoidance" and correction measures would be costly to facilities, with one commenter estimating increased costs at \$3-6 per patient day.

Response: Neither the new regulatory provisions nor the new survey methodology itself impose any new requirements on facilities. This final rule reflects current policy and procedures and would only serve to codify in regulations those practices that have already been implemented.

III. Technical Comments on the Content of the Survey Forms and Guidelines

A. Survey Report Form

Comment: We received about 160 suggestions for changes to the survey report forms. Listed below are the major issues that were raised and an overview of other types of suggestions:

- Standard-level deficiencies for both SNFs and ICFs should be identified as such throughout the survey report forms.
- Differing requirements for SNFs and ICFs need to be more clearly delineated on the forms.
- The Resident Census and Conditions of Residents section of the Part B form should be revised to include all the special care categories included in the procedures for selecting a resident sample.
- Individual survey report form items should be moved from Part A (review of administrative and procedural requirements) to Part B (review of requirements directly affecting resident care) or vice-versa.
- All or parts of the survey report form should be redesigned.

- Individual survey report form items need to be changed or added to the forms.

Response: As suggested by commenters, we have revised the forms by identifying standard-level deficiencies, clarifying which items pertain solely to SNFs or ICFs, and adding several care categories to the resident census section of the forms to correspond with the procedures for selecting a resident sample.

We have not transferred any survey report form items between Part A and Part B, nor have we made major changes in forms design at this time. The content and design of the Parts A and B forms were developed and refined through a lengthy process of work group meetings and field testing prior to implementation. We are deferring major forms design and content changes to coincide with the planned refinements in the overall survey process that will be necessitated in conjunction with the revised long term care conditions of participation and the new OBRA '87 requirements. HCFA again intends to use a work group approach to developing a refined survey process.

In considering the numerous suggestions for changes or additions to the forms, we accepted the following types of changes:

- Clarification of requirements—For example, in the section of the survey report form covering Resident Rights, Section C—Transfer and Discharge (F65-68), we amended the form to include the regulatory language regarding the timeframe for notification of residents prior to transfer.
- Omissions—For example, we added to the survey form several ICF standards dealing with dietary services, social services and activities that had been inadvertently omitted from the form.
- Corrections—For example, we changed the form to reflect a regulatory change for ICFs that requires that drug regimen reviews be conducted by a pharmacist rather than a registered nurse.

We did not make changes that would exceed or conflict with current regulatory requirements, such as the suggested addition of an item concerning whether each resident has received a complete annual physical examination. We are deferring for future consideration suggestions for items associated with new requirements likely to be included in the revised long term care conditions of participation (for example, elevate all resident rights requirements to standard level). Finally, we rejected suggestions that reflected incorrect understanding of the current

regulations or the survey report form itself.

B. Procedural Guidelines

Comment: We received approximately 150 suggestions for changes to the procedural guidelines. The procedural guidelines are a resource document that assists surveyors in applying the long term care survey process. Many of these suggestions paralleled recommendations regarding the proposed rule and the overall survey methodology and thus have been addressed in previous comments (for example, the issue of survey team composition or the recommendation that the requirement for entrance and exit conferences be deleted). Summarized below are the remaining major issues that were raised and an overview of suggestions for technical changes or language modifications:

- Selection of a Sample of Residents for Review. Commenters focused on the following concerns:
 - The increased sample size was unnecessary and burdensome to surveyors.
 - The sample selection methodology was confusing and the use of one of the sample selection options (Option B. Substitution) could destroy the representative nature of the sample.
 - Additional special care categories should be specified for inclusion in the targeted portion of the resident sample.
 - Use of Part A Survey Process. Several commenters, mainly consumer advocates, expressed the view that a full or partial Part A survey should be conducted on a regular basis. Suggestions included conducting Part A in all facilities on an annual basis, on a bi-annual basis, following a change in ownership or management, and whenever serious deficiencies are identified during the regular Part B or Life Safety Code surveys.
 - Resident Interviews—Commenters expressed strong support for the introduction of resident interviews into the survey process but also offered the following suggestions for improving the interview process:
 - Increase the average time suggested for interviews from 15 minutes to 30-60 minutes.
 - Emphasize to surveyors the importance of protecting the privacy of the resident during the interview.
 - Require that family members of residents be part of the interview process.
 - Technical Changes—Commenters had many suggestions for additions or

changes to the procedural guidelines that would either clarify the instructions to surveyors or make minor procedural changes in the survey process.

Response: Our responses to the above issues are as follows:

- **Selection of a Sample of Residents for Review.** The sample size and methodology prescribed in the procedural guidelines was based on extensive research conducted by Brown University, under contract to HCFA beginning in 1984, on how surveyor resources could be used most effectively to identify care deficiencies. The research clearly showed the increased statistical power of increasing the sample from a straight 10 percent to the present proportional system (with an average sample of approximately 20 percent), and we increased funding to the State survey agencies in accordance with the increased sample size requirement. We consulted with the work group of State, consumer and industry representatives, and they generally supported the increased sample size. No changes in the sample size were made based on the comments.

The refined methodology for selecting a resident sample, consisting of a primarily random approach with limited targeting of specified care categories, was also subjected to work group review prior to implementation. Based primarily on the comments of surveyors who used the new methodology in the field, we have changed the procedural guidelines to eliminate the "substitution" sampling option that surveyors found confusing and ineffective.

Finally, we have not added any new special care categories to the current list specified for targeted review. Without substantial further increases in surveyor funding, the addition of more such categories would jeopardize the representative nature of the primarily random sample. Since the specified care categories were developed based on current quality of care requirements, we will reconsider the list when we refine the survey process subsequent to the new nursing facility conditions of participation.

- **Use of Part A Survey Process.** The new survey process, as embodied in the Part B survey, was designed to focus inspections on direct resident care and the outcomes of that care rather than on the structural requirements contained in Part A. By discontinuing the regular review of many administrative and structural requirements (for example, bylaws, committee minutes), we were able to concentrate survey resources into the in-depth observation, interview and record review of individual

residents. This change in emphasis was advocated by providers, consumers and surveyors, and the efficacy of this approach was demonstrated by a series of State experiments carried out prior to the national implementation of the new survey process.

Conducting Part A surveys on a regular basis in all nursing facilities, in addition to the standard Part B survey and Life Safety Code inspections, would significantly increase the burden on both States and providers without any likelihood of improvement in direct care. Facilities must still comply with all Part A requirements, and surveyors are expected to verify compliance with administrative and structural requirements that may be associated with Part B deficiencies.

The new nursing facility conditions of participation are likely to include a significant consolidation in the type of administrative and structural requirements now contained in Part A. In the course of the subsequent survey refinement process, we will consult with a work group to determine how best to incorporate review of such requirements into the refined survey methodology.

- **Resident Interviews—Procedural guidelines** do not limit the length of interviews to 15 minutes, and surveyors are free to conduct extended interviews as necessary, if the resident does not object. However, we believe that, on the average, 15 minutes is sufficient for the surveyor to accomplish the purpose of the interview, particularly in view of the increased number of interviews now required under the revised method for determining sample size.

As suggested, we have changed the procedural guidelines to emphasize that each resident interview should be conducted in private, unless the resident specifically requests that another individual be present.

Lastly, it is not feasible to require that each resident's family member(s) be included in the interview process while still conducting surveys on an unannounced basis. Guidelines continue to instruct surveyors to converse with available family members of residents selected for in-depth review.

- **Technical Changes—**In considering the suggested technical changes, we generally accepted and made changes based on the following types of suggestions:

- Clarification of meaning.** For example, we added or revised language regarding the overall purpose of several process components and specified that the surveyor conducting the drug pass should be a pharmacist or a registered nurse. We also deleted

language that was interpreted as casting doubt on the veracity of information obtained through resident interviews.

- Corrections.** For example, we changed the time frame for submission of plans of correction to coincide with the State Operation Manual instructions.

We did not make changes that would result in redundancy or in unnecessarily reduced surveyor flexibility in conducting the survey. For example, we chose not to add a repeated discussion of the importance of observing resident and staff interactions and whether resident rights are respected to the section of the guidelines covering the drug pass, since the importance of these concerns had previously been stressed. Nor did we require that surveyors complete all resident observation and interview prior to beginning record reviews.

We also did not make changes when we received numerous directly conflicting comments on a particular issue. Two examples of such issues include whether or not facility staff should accompany surveyors on the facility tour and whether the dining and eating assistance observation should be consolidated or expanded. We believe these types of issues should be deferred to the planned work group for resolution.

C. Care Guidelines

Comment: Commenters submitted about 250 individual suggestions for changes to the care guidelines, which are extensive surveyor reference manuals containing examples of the types of information to be collected and reviewed by surveyors in order to make determinations regarding facility quality of care. The large majority of these suggestions involved modifications to the Dietary Services, Resident Rights and Nursing Services sections of the guidelines. Most of the remaining suggestions addressed minor technical changes in scattered portions of the guidelines. A few commenters raised general issues related to the care guidelines, including:

- The need to establish a task force or work group to discuss changes;
- Concern over the care guidelines exceeding regulatory requirements; and
- The importance of using open-ended interview questions and not incorporating a negative bias into the guidelines.

Response: The care guidelines are intended as a resource document to assist surveyors in applying the long term care survey process. Unlike the survey report forms or the procedural

guidelines, the care guidelines do not represent prescriptive or comprehensive instructions to surveyors. Instead, the care guidelines provide common examples of the types of information surveyors should review in order to make determinations on facility compliance with quality of care standards. Our review and disposition of the comments on the care guidelines were based on this understanding of the limited purpose and scope of the guidelines.

The first criterion we used in considering comments was consistency with the existing regulations and law. We made changes to the guidelines based on suggestions that helped make the guidelines more consistent with the regulations; we rejected changes that would result in the guidelines exceeding or conflicting with regulatory requirements. For example:

- We added suggested interview questions regarding mail delivery and the receipt of phone calls, based on compatibility with the resident rights regulations.
- We added a recommendation that surveyors should check whether information regarding the use of restraints is contained in nursing notes and the medical record, based on consistency with medical record requirements.
- We did not add suggested language instructing surveyors to verify whether the pharmacist notified the dietary department of adverse food or drug interactions; although this may be a desirable standard of practice, it is not a regulatory requirement.
- As suggested, we modified a reference to the "posting" of resident rights, because regulations require only that residents be informed of their rights and that the resident rights policy be available.

A second criterion that we applied in assessing the commenters' suggestion was whether each suggestion conformed with the intended scope of the guidelines. Thus, we had to weigh the value of providing additional guidance to the surveyor against the drawbacks of becoming too prescriptive, too simplistic for the target audience of surveyors, or so all-inclusive as to be unmanageably large for ready use by surveyors. For example:

- We added suggested observation items, interview questions, record review items and evaluation factors in a number of areas associated with specific special care categories reviewed during a survey, including catheters, bowel/bladder training, colostomy, parenteral fluids/IVs, tracheostomy, tube feeding, and physical and chemical restraints.

- We did not add suggested descriptions of the various types of exercises that should be provided to residents upon release from different kinds of physical restraints.

- We added suggested interview questions regarding the availability of activities to bedfast residents and the degree of choice provided to residents in such matters as clothing, meals, bathing schedule, etc.

- We did not believe it necessary to instruct surveyors to take into consideration time of day or recent activities when assessing the appropriateness of resident grooming or hygiene or to provide a definition of the term "clinical study".

Throughout the care guidelines, we attempted to incorporate suggested changes that would make interview questions more open-ended or that would eliminate a perceived negative bias from interview questions. We also adopted suggestions that we delete or rephrase interview questions that would tend to undermine a resident's confidence in the facility or would call on a resident to comment on the care provided to another resident. We did not accept suggestions that were not in keeping with the outcome-oriented nature of the survey process, such as instructing surveyors to review committee minutes, policy manuals or other written administrative materials.

As noted previously, we believe that many of the suggestions and issues raised by the commenters should be deferred to a work group of regulators, industry representatives, health professionals, and consumer advocates for resolution. With respect to the care guidelines, we believe that the work group approach is particularly suitable for the many clinical practice issues that were raised. In the Dietary Services area, for example, most of the suggestions we received consisted of often conflicting views on the proper nutritional standards that surveyors should be using in assessing resident meals and nutrition plans. Such aspects of the care guidelines were developed and refined via a consensus-based process, and we believe that the same approach should be applied to their continuing evolution.

Revisions to the Regulations

We are adopting as final the proposed rule published in the *Federal Register* July 1, 1987 at 52 FR 24752 with the following modifications:

- We are revising the Medicaid regulations, § 442.30(a)(5)(ii), to clarify that surveyors will observe not only the actual provision of care and services to

residents, but also the effects of that care.

- We are revising § 442.30(a)(4) by removing the specific reference to a section of the State Operations Manual.

- We are redesignating the content of Part 405, Subpart S, Certification Procedure for Providers and Suppliers of Services, to new Part 448, Subparts A and B. As part of our plan to make the Code of Federal Regulations easier to use, we are redesignating Subpart S of Part 405 as Part 448, Subparts A and B. This redesignation merely transfers the existing content of Subpart S to Part 448 without substantive change. We have made only technical changes including revised cross-references.

- We are revising the Medicare regulations at redesignated § 488.26(b)(2) (formerly § 405.1906) to clarify that surveyors will observe not only the actual provision of care and services to residents, but also the effects of that care.

- We are revising redesignated § 488.26(c) by removing the specific reference to a section of the State Operations Manual.

- We are revising redesignated § 488.26(e)(8) (formerly § 405.1906) to provide that follow-up surveys are conducted "as appropriate" to conform to the wording of § 442.30(a)(7)(viii).

- In Part 448, Subpart C, we are adding § 488.100 to include the long term care survey forms, Part A.

- We are adding § 488.105 to Subpart C to include the long term care survey forms, Part B.

- We are adding § 488.110 to Subpart C to include the Procedural guidelines used in long term care surveys.

- We are adding § 488.115 to Subpart C to set forth the Care guidelines used to survey facilities.

Regulatory Impact Analysis

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any regulation that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: An annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on innovation, or on the ability of United States-based enterprises in domestic or export markets. In addition, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed

regulation would not have significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all long-term care facilities as small entities.

This final rule reflects current policy and procedures and would only serve to codify in regulations those practices which have already been implemented. This rule would not establish any incremental economic burden beyond those currently experienced by long-term care facilities.

For these reasons, we have determined that a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on a substantial number of small entities, and we have therefore not prepared a regulatory flexibility analysis.

Paperwork Reduction Act of 1980

Sections 488.100, 488.105, 488.110 and 488.115 of this final rule contain information collection requirements. As required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3504), we are submitting the forms and guidelines to the Executive Office of Management and Budget (EOMB) for its review. Other organizations and individuals desiring to submit comments on the information collection requirements should send them to: Allison Herron, Desk Officer for HCFA, Office of Information and Regulatory Affairs, Room 3002, New Executive Building, Washington, DC 20503.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 442

Grant programs—health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 488

Health facilities, Survey and certification, Forms and guidelines.

REDESIGNATION TABLE—Continued

Old section	New section
405.1901(d).....	488.05
405.1901(e).....	488.06
405.1901(q).....	488.08
405.1902(a).....	488.10
405.1902(b).....	488.11
405.1902(c).....	488.12
405.1902(d).....	488.14
405.1903.....	488.18
405.1904.....	488.20
405.1905.....	488.24
405.1906.....	488.26
405.1907.....	488.28
	Subpart B
405.1908.....	488.50
405.1909.....	488.52
405.1910.....	488.54
405.1911.....	488.56
405.1912.....	488.60
405.1913.....	488.64
	Subpart C
	488.100
	488.105
	488.110
	488.115

42 CFR Chapter IV is amended as set forth below:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCHAPTER E—STANDARDS AND CERTIFICATION

A. A new Part 488 is established under Subchapter E, to read as follows:

PART 488—SURVEY AND CERTIFICATION PROCEDURES

Subpart A—General Provisions

Sec.

- 488.1 Definitions.
- 488.3 Conditions of participation: Conditions for coverage.
- 488.5 Effect of JCAHO or AOA accreditation.
- 488.6 Validation survey.
- 488.8 Civil rights requirements.
- 488.10 State survey agency review: Statutory provisions.
- 488.11 State survey agency functions.
- 488.12 Effect of survey agency certification.
- 488.14 Effect of PRO review.
- 488.18 Documentation of findings.
- 488.20 Periodic review of compliance and approval.
- 488.24 Certification of noncompliance.
- 488.26 Determining compliance.
- 488.28 Providers of suppliers with deficiencies.

Subpart B—Special Requirements

- 488.50 Special requirements applicable to skilled nursing facilities with deficiencies.
- 488.52 Special requirements applicable to independent laboratories.
- 488.54 Temporary waivers applicable to hospitals.
- 488.56 Temporary waivers applicable to skilled nursing facilities.

- 488.60 Special procedures for approving end-stage renal disease facilities.
- 488.64 Remote facility variances for utilization review requirements.

Subpart C—Survey Forms and Procedures

- 488.100 Long term care survey forms, Part A.
- 488.105 Long term care survey forms, Part B.
- 488.110 Procedural guidelines.
- 488.115 Care guidelines.

Authority: Secs. 1102, 1814, 1861, 1865, 1866, 1871, 1880, 1881 and 1883 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395x, 1395bb, 1395cc, 1395hh, 1395qq, 1395rr and 1395tt).

Subpart A—General Provisions

§ 488.1 Definitions.

As used in this part—

Accredited hospital means a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations or by the American Osteopathic Association.

Act means the Social Security Act. AOA stands for the American Osteopathic Association.

Certification is a recommendation made by the State survey agency on the compliance of providers and suppliers with the conditions of participation and conditions of coverage.

Full review means a survey of a hospital for compliance with all conditions of participation for hospitals.

JCAHO stands for the Joint Commission on Accreditation of Healthcare Organizations.

Provider of services or provider means a hospital, skilled nursing facility, home health agency, hospice, comprehensive outpatient rehabilitation facility, or provider of outpatient physical therapy or speech pathology services.

State includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

State survey agency means the State health agency or other appropriate State or local agency used by HCFA to perform survey and review functions for Medicare.

Substantial allegation means a complaint which reflects on the health and safety of patients and raises doubts as to a hospital's compliance with the conditions of participation.

Supplier means any of the following: independent laboratory; portable X-ray services; physical therapist in independent practice; ESRD facility; rural health clinic; or chiropractor.

§ 488.3 Conditions of participation; Conditions for coverage.

(a) *Basic rules.* In order to be approved for participation in or

REDESIGNATION TABLE

Old section	New section
Part 405	Part 488
Subpart S	Subpart A
405.1901(a).....	488.01
405.1901 (b) and (c).....	488.03

coverage under the Medicare program, a prospective provider or supplier must:

(1) Meet the applicable statutory definition in section 1861 or section 1881 of the Act; and

(2) Be in compliance with the applicable conditions prescribed in Subpart K, L, M, N, Q, or U of Part 405, Subpart C of Part 418, Part 482, or Subpart A of Part 491 of this chapter.

(b) *Special Conditions.* (1) The Secretary, after consultation with the JCAHO or AOA, may issue conditions of participation for hospitals higher or more precise than those of either those accrediting bodies.

(2) The Secretary may, at a State's request, approve health and safety requirements for providers and suppliers in that State, which are higher than those otherwise applied in the Medicare program.

(3) If a State or political subdivision imposes higher requirements on institutions as a condition for the purchase of health services under a State Medicaid Plan approved under Title XIX of the Act, (or if Guam, Puerto Rico, or the Virgin Islands does so under a State plan for Old Age Assistance under Title I of the Act, or for Aid to the Aged, Blind, and Disabled under the original Title XVI of the Act), the Secretary is required to impose similar requirements as a condition for payment under Medicare in that State or political subdivision.

§ 488.5 Effect of JCAHO or AOA accreditation.

Institutions accredited as hospitals by the JCAHO or AOA are deemed to meet all of the Medicare conditions of participation for hospitals, except:

(a) The requirement for utilization review as specified in section 1861(e)(6) of the Act and in § 482.30 of this chapter.

(b) The additional special staffing and medical records requirements that are considered necessary for the provision of active treatment in psychiatric hospitals (section 1861(f) of the Act) and implementing regulations; and

(c) Any requirement under section 1861(e) of the Act and implementing regulations which the Secretary, after consulting with JCAHO or AOA, identifies as being higher or more precise than the requirements for accreditation (section 1865(a)(4) of the Act).

§ 488.6 Validation survey.

(a) *Basis for survey.* HCFA may require a survey of an accredited hospital to validate the JCAHO or AOA accreditation process. These surveys will be conducted on a selective-sample

basis, or in response to substantial allegations of significant deficiencies.

(b) *Effect of selection for survey.* A hospital selected for a validation survey must: (1) Authorize its accrediting body to release to HCFA or the State survey agency (on a confidential basis for JCAHO hospitals), a copy of the hospital's current accreditation survey. (For the rules on confidentiality, see 42 CFR 401.126;

(2) Authorize carrying out the validation survey; and

(3) Authorize its accrediting body to release periodic status reports to HCFA on correction of deficiencies when HCFA and the accrediting body agree that the latter will monitor the correction deficiencies.

(c) *Refusal to cooperate with survey.* If a hospital selected for a validation survey fails to comply with the requirements specified in paragraph (b) of this section, it will no longer be deemed to meet the Medicare conditions of participation but will be subject to full review by the State survey agency in accordance with § 488.11 and may be subject to termination of its provider agreement under § 489.53 of this chapter.

(d) *Consequences of finding of non-compliance.* (1) If a validation survey results in a finding that the hospital is out of compliance with one or more conditions of participation and a significant deficiency is determined to exist, the hospital will no longer be deemed to meet the conditions of participation. Specifically, the hospital will be subject to the requirements applied to unaccredited hospitals that are found out of compliance following a State agency survey under § 488.28, and to full review by a State agency survey in accordance with § 488.11.

(2) A significant deficiency will be determined not to exist if:

(i) The accrediting body accepts the State survey agency finding of deficiencies and agrees to monitor the correction of the deficiencies in accordance with specified time frames; and

(ii) The State survey agency is unable to justify to HCFA the need for continued full review by the State survey agency to assure correction of deficiencies; and

(iii) The accrediting body provides HCFA with periodic reports of progress toward corrections.

(e) *Reinstating effect of accreditation.* An accredited hospital will be once again deemed to meet the Medicare conditions of participation in accordance with this section if:

(1) It withdraws any prior refusal to authorize its accrediting body to release

a copy of the hospital's current accreditation survey;

(2) It withdraws any prior refusal to allow a validation survey;

(3) It withdraws any prior refusal to authorize its accrediting body to release periodic status reports on correction progress; and

(4) HCFA finds that the hospital meets all the Medicare conditions of participation.

(f) *Informal administrative review.* (1) An accredited hospital which is dissatisfied with a finding that it is not in compliance with a condition of participation, or a finding that it is no longer deemed to meet the conditions of participation, is entitled to an informal administrative review.

(2) The hospital must request informal review in writing within 15 days of the date it received HCFA's notice of the finding.

(3) The request should state why the finding is considered incorrect and should be accompanied by any supporting evidence and arguments.

§ 488.8 Civil rights requirements.

Providers must meet the requirements of:

(a) Title VI of the Civil Rights act of 1964, as implemented by 45 CFR Part 80, which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or the subject to discrimination under, any program or activity receiving Federal financial assistance (section 601);

(b) Section 504 of the Rehabilitation Act of 1973, as implemented by 45 CFR Part 84, which provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance; and

(c) Other pertinent requirements made by the Office of Civil Rights of the Department of Health and Human Services.

§ 488.10 State survey agency review: Statutory provisions.

(a) Section 1864(a) of the Act requires the Secretary to enter into an agreement with any State that is able and willing to do so, under which appropriate State or local survey agencies will determine whether:

(1) Providers or prospective providers meet the Medicare conditions of participation;

(2) Suppliers meet the conditions for coverage; and

(3) Rural health clinics meet the conditions of certification.

(b) Section 1865(a) of the Act provides that if an institution is accredited as a hospital by the JCAHO, it will be deemed to meet the conditions of participation:

(1) Except those specified in § 488.5;

(2) Provided that such hospital, if it is included within a validation survey, authorizes the JCAHO to release to HCFA (on a confidential basis) upon request a copy of the most current JCAHO accreditation survey.

(c) Section 1864(c) of the Act authorizes the Secretary to enter into agreements with State survey agencies for the purpose of conducting validation surveys in hospitals accredited by the JCAHO. Section 1865(b) provides that an accredited hospital which is found after a validation survey to have significant deficiencies related to the health and safety of patients will no longer be deemed to meet the conditions of participation.

(d) Section 1865(a) of the Act also provides that if the Secretary finds that accreditation of an institution or agency by the AOA or any other national accreditation body provides reasonable assurance that any or all of the

conditions of participation are met, the Secretary may treat such institution as meeting the conditions of participation. The Secretary has found that the accreditation of hospitals by the AOA provides such reasonable assurance, and has extended the same procedures applicable to JCAHO accredited hospitals to AOA accredited hospitals.

§ 488.11 State survey agency functions.

State and local agencies that have agreements under section 1864(a) of the Act—

(a) Survey and make recommendations regarding the issues listed in § 488.10;

(b) Conduct validation surveys as provided in § 488.6;

(c) Perform other surveys and other appropriate activities and certify their findings to HCFA; and

(d) Review statements obtained from each SNF, setting forth (from payroll records) the average numbers and types of personnel (in full-time equivalents) on each tour of duty during at least 1 week of each quarter, such week to be selected by the survey agency and to occur irregularly in each quarter of the year.

§ 488.12 Effect of survey agency certification.

Certifications by the State survey

agency represent recommendations to HCFA.

(a) On the basis of these recommendations, HCFA will determine whether:

(1) A provider or supplier is eligible to participate in or be covered under the Medicare program; or

(2) An accredited hospital is deemed to meet the Medicare conditions of participation or is subject to full review by the State survey agency.

(b) Notice of HCFA's determination will be sent to the provider or supplier.

§ 488.14 Effect of PRO review.

When a PRO is conducting review activities under section 1154 of the Act and Part 466 of this chapter, its activities shall be in lieu of the utilization review and evaluation activities required of health care institutions under sections 1861(e)(6), 1861(j)(8), 1861(j)(12), and 1861(k) of the Act and will also be in lieu of survey, compliance and assistance activities required of State survey agencies under section 1864(a) with respect to those sections.

Subpart C—Survey Forms and Procedures

BILLING CODE 4120-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0400

PART A — ADMINISTRATIVE AND PROCEDURAL REQUIREMENTS
MEDICARE / MEDICAID SKILLED NURSING FACILITY AND INTERMEDIATE CARE FACILITY SURVEY REPORT

PROVIDER NUMBER

FACILITY NAME AND ADDRESS (City, State, Zip Code)

VENDOR NUMBER

SURVEY DATE

SURVEYORS' NAMES

TITLES

Form HCFA-525 (2-86)

Page 1

NAME OF FACILITY

NAME OF FACILITY

CODE	COMPLIANCE WITH STATE AND LOCAL LAWS	YES	NO	N/A	EXPLANATORY STATEMENT
	Compliance with State and Local Laws (Condition of Participation)				
F500	SNF (405.1120) ☐ MET ☐ NOT MET				
	A. Licensure				
F501	SNF (405.1120(a)) (Standard) ☐ MET ☐ NOT MET				
F502	ICF (442.251) (Standard) ☐ MET ☐ NOT MET				
F503	The facility has a current State License (Number _____)				
	B. Personnel Licensure				
F504	SNF (405.1120(b)) (Standard) ☐ MET ☐ NOT MET				
F505	ICF (442.302) (Standard) ☐ MET ☐ NOT MET				
F506	Staff of the facility are licensed or registered in accordance with applicable State laws.				
	C. Compliance with Other Laws				
F507	SNF (405.1120(c)) (Standard) ☐ MET ☐ NOT MET				
F508	ICF (442.252) (Standard) ☐ MET ☐ NOT MET				
F509	ICF (442.315) (Standard) ☐ MET ☐ NOT MET				
F510	The facility is in compliance with applicable Federal, State and local laws and regulations relating to fire and safety, sanitation, communicable and reportable diseases, postmortem procedures and other relevant health and safety requirements.				

Form HCFA-525 (2-86)

Page 2

NAME OF FACILITY

CODE	COMPLIANCE WITH STATE AND LOCAL LAWS/ GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	The facility is in compliance with applicable regulations pertaining to:				
F511	Buying, dispensing, safeguarding, administering, and disposing of medications and controlled substances. Exception: Not applicable to SNFs.				
F512	Construction, maintenance and equipment. Exception: Not applicable to SNFs.				
F513	Current reports from all responsible governmental agencies are retained at the facility.				
F514	Governing Body and Management (Condition of Participation) SNF (405.1121) ☐ MET ☐ NOT MET The facility has a governing body with full legal authority and responsibility for operation of the facility.				
F515	A. Disclosure SNF (405.1121(a)) (Standard) ☐ MET ☐ NOT MET Full disclosure of ownership has been made in accordance with requirements at 42 CFR 420.206.				
F516	B. Administration SNF (405.1121(c)) (Standard) ☐ MET ☐ NOT MET				
F517	1. Written bylaws address the operation of the facility.				
F518	2. Written bylaws and policies address effective resident care.				
F519	3. Bylaws are reviewed and revised as necessary.				

Form HCFA-525 (2-86)

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
F520	ICF (442.301) (Standard) ☐ MET ☐ NOT MET				
F521	C. Independent Medical Review SNF (405.1121(d)) (Standard) ☐ MET ☐ NOT MET The facility has policies which ensure that the facility cooperates in an effective program for regular independent medical evaluation and audit of residents in the facility to the extent required by the programs in which the facility participates.				
F522	D. Administrator SNF (405.1121(e)) (Standard) ☐ MET ☐ NOT MET				
F523	ICF (442.303) (Standard) ☐ MET ☐ NOT MET				
F524	The facility has a licensed administrator who has authority for the overall operation of the facility. (Administrator's license or registration number _____).				
F525	E. Resident Care Director ICF (442.304) (Standard) ☐ MET ☐ NOT MET				
F526	1. The administrator or another professional staff member is the resident care director (RSD).				
F527	2. The RSD coordinates and monitors each resident's care.				

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	F. Institutional Planning				
F528	SNF (405.1121(f)) (Standard) ☐ MET ☐ NOT MET				
F529	1. The facility has an overall plan and budget prepared by a committee of representatives from the governing body, administrative staff, and the organized medical staff (if any).				
F530	2. The overall plan and budget is reviewed and updated at least annually.				
F531	3. The plan includes a capital expenditures plan, if necessary.				
	G. Personnel Policies and Procedures				
F532	SNF (405.1121(g)) (Standard) ☐ MET ☐ NOT MET				
	1. The facility has written policies and procedures that support sound resident care and personnel practices and address, at least:				
F533	a. Control of communicable disease;				
F534	b. The review of employee incidents and accidents to identify health and safety hazards; and				
F535	c. The existence of a safe and sanitary environment.				
F536	2. Personnel records are current, available to each employee, and contain sufficient information to support placement in the position to which assigned.				
F537	3. Referral or provision for periodic health examinations to ensure freedom from communicable disease.				

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	H. Outside Resources/Consultant Agreements				
F538	SNF (405.1121(i)) (Standard) ☐ MET ☐ NOT MET				
F539	ICF (442.317) (Standard) ☐ MET ☐ NOT MET				
F540	The facility has written agreements with qualified persons to render a service (if it does not employ a qualified professional person to do so). The agreements:				
F541	1. Address the responsibilities, functions, objectives, and terms (including financial arrangements and charges);				
F542	2. Are signed by an authorized representative of the facility and the outside resource; and				
F543	3. Specify that the facility retains ultimate responsibility for the services rendered.				
	I. Notification of Change in Resident Status				
F544	SNF (405.1121(j)) (Standard) ☐ MET ☐ NOT MET				
F545	The facility has policies and procedures to notify physicians and other responsible persons in the event of an accident involving the resident, or resident's physical, mental or emotional status, or resident charges, billings or related administrative matter.				

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
J. Resident Rights					
F546	SNF (405.1121(k)) (Standard) ☐ MET ☐ NOT MET Indicators 1 thru 12 apply to SNFs.				
F547	ICF (442.311) (Standard) ☐ MET ☐ NOT MET				
1. Information					
F548	a. The facility informs each resident, before or at the time of admission, of his rights and responsibilities.				
F549	b. The facility informs each resident, before or at the time of admission, of all rules governing resident conduct.				
F550	c. The facility informs each resident of amendments to their policies on residents' rights and responsibilities and rules governing conduct.				
F551	d. Each resident acknowledges in writing receipt of residents' rights information and any amendment to it.				
F552	e. The resident must be informed in writing of all services and charges for services.				
F553	f. The resident must be informed in writing of all changes in services and charges before or at the time of admission and on a continuing basis.				
F554	g. The resident must be informed of services not covered by Medicare or Medicaid in the basic rate.				

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	2. Medical Condition and Treatment				
F555	a. Each resident is informed by a physician of his health and medical condition unless the physician decides that informing the resident is medically contraindicated.				
F556	b. Each resident is given an opportunity to participate in planning his total care and medical treatment.				
F557	c. Each resident is given an opportunity to refuse treatment.				
F558	d. Each resident gives informed, written consent before participating in experimental research.				
F559	e. If the physician decides that informing the resident of his health and medical condition is medically contraindicated, the physician has documented this decision in the resident's medical record.				
	3. Transfer and Discharge				
	Each resident is transferred or discharged only for:				
F560	a. Medical reasons.				
F561	b. His/her welfare or that of other residents.				
F562	c. Nonpayment except as prohibited by the Medicare or Medicaid program.				
	4. Exercising Rights				
F563	a. Each resident is encouraged and assisted to exercise his/her rights as a resident of the facility and as a citizen.				
F564	b. Each resident is allowed to submit complaints and recommendations concerning the policies and services of the facility to staff or to outside representatives of the resident's choice or both.				
F565	c. Such complaints are submitted free from restraint, coercion, discrimination, or reprisal.				

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	5. Financial Affairs				
F566	a. Residents are allowed to manage their own personal financial affairs.				
F567	b. The facility establishes and maintains a system that assures full and complete accounting of residents' personal funds. An accounting report is made to residents in skilled nursing facilities at least on a quarterly basis.				
F568	c. The facility does not commingle resident funds with any other funds other than resident funds.				
F569	d. If a resident requests assistance from the facility in managing his personal financial affairs, resident's delegation is in writing.				
	e. The facility system of accounting includes written receipts for:				
F570	1. All personal possessions and funds received by or deposited with the facility.				
F571	2. All disbursement made to or for the resident.				
F572	f. The financial record must be available to the resident and his/her family.				
	6. Freedom from Abuse and Restraints				
F573	a. Each resident is free from mental and physical abuse.				
F574	b. Chemical and physical restraints are only used when authorized by a physician in writing for a specified period of time or in emergencies.				
F575	c. If used in emergencies, they are necessary to protect the resident from injury to himself or others.				

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CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
F576	d. The use is authorized by a professional staff member identified in the written policies and procedures of the facility.				
F577	e. The use is reported promptly to the resident's physician by the staff member.				
	7. Privacy				
F578	a. Each resident is treated with respect, consideration and full recognition of his/her dignity and individuality.				
F579	b. Each resident is given privacy during treatment and care of personal needs.				
F580	c. Each resident's records, including information in an automated data bank, are treated confidentially.				
F581	d. Each resident must give written consent before the facility releases information from his/her record to someone not otherwise authorized to receive it.				
F582	e. Married residents are given privacy during visits by their spouses.				
F583	f. Married residents are permitted to share a room.				
	8. Work				
F584	No resident may be required to perform services for the facility.				
	9. Freedom of Association and Correspondence				
F585	a. Each resident is allowed to communicate, associate and meet privately with individuals of his choice unless this infringes upon the rights of another resident.				
F586	b. Each resident is allowed to send and receive personal mail unopened.				

NAME OF FACILITY		GOVERNING BODY AND MANAGEMENT		YES	NO	N/A	EXPLANATORY STATEMENT
CODE							
F587	10. Activities Each resident is allowed to participate in social, religious, and community group activities.						
F588	11. Personal Possessions Each resident is allowed to retain and use his personal possessions and clothing as space permits.						
F589	12. Written Policies and Procedures: Delegation of Rights and Responsibilities ICF (442.312) (Standard) ☐ MET ☐ NOT MET						
F590	a. The facility has written policies and procedures that provide that all the rights and responsibilities of a resident pass to the resident's guardian, next of kin or sponsoring agency or agencies if the resident is adjudicated incompetent under State law or is determined by his physician to be incapable of understanding his rights and responsibilities.						
F591	b. Physician determinations of incapability and the specific reasons thereof are recorded by the physician in the resident's record.						
F592	K. Resident Care Policies SNF (405.1121(i)) (Standard) ☐ MET ☐ NOT MET						
F593	1. The facility has written policies to govern the continuing skilled nursing care and related medical or other services provided.						
F594	2. These policies reflect awareness of and provision for meeting the total medical and psychosocial needs of residents including admission, transfer, discharge planning, and the range of services available to residents; and						

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
F595	3. The protection of residents' personal and property rights.				
F596	4. The policies are developed by a group of professional personnel, including the Medical Director or the organized medical staff, and are periodically reviewed and revised (if necessary).				
F597	5. These policies are available to admitting physicians, sponsoring agencies, residents, and the public.				
F598	6. The Medical Director or a registered nurse is designated as responsible for the execution of the policies.				
	L. Public Availability				
F599	ICF (442.305) (Standard) ☐ MET ☐ NOT MET				
F600	1. The facility has written policies and procedures governing all the services it provides.				
F601	2. The policies and procedures are available to the staff and residents, members of the family, the public, and legal representatives of residents.				
	M. Admissions				
F602	ICF (442.306) (Standard) ☐ MET ☐ NOT MET				
	The facility has written policies and procedures that ensure that it admits as residents only those residents whose needs can be met by:				
F603	1. the facility itself.				
F604	2. the facility in cooperation with community resources.				
F605	3. the facility in cooperation with other providers of care affiliated with or under contract to the facility.				

NAME OF FACILITY		GOVERNING BODY AND MANAGEMENT		YES	NO	N/A	EXPLANATORY STATEMENT
N. Transfers							
F606	ICF (442.307) (Standard)	☐ MET	☐ NOT MET				
F607	1. The facility has written policies and procedures to ensure that residents are transferred promptly to a hospital, SNF or other appropriate facility when a change is necessary.						
F608	2. Except in emergencies, the facility consults the resident, his next of kin, the attending physician, and the responsible agency, if any, at least five days before discharge.						
F609	3. The facility uses casework services and other means to ensure that adequate arrangements are made to meet resident's needs through other resources.						
O. Restraints							
F610	ICF (442.308) (Standard)	☐ MET	☐ NOT MET				
F611	The facility has written policies and procedures that:						
	1. Define the uses of chemical and physical restraints.						
F612	2. Identify the professional personnel who may authorize the use of restraints in emergencies under 442.311(f).						
F613	3. Describe procedures for monitoring and controlling the use of these restraints.						
P. Complaints							
F614	ICF (442.309) (Standard)	☐ MET	☐ NOT MET				
F615	The facility has written policies and procedures that:						
	1. Describe the procedures the facility uses to receive complaints and recommendations from residents.						
F616	2. Ensure that the facility responds to complaints and recommendations.						

NAME OF FACILITY

CODE	GOVERNING BODY AND MANAGEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	Q. Staff Development				
F617	SNF (405.1121(h)) (Standard) ☐ MET ☐ NOT MET				
F618	ICF (442.314) (Standard) ☐ MET ☐ NOT MET				
F619	1. The facility conducts an orientation program for all new employees that includes a review of all its policies.				
F620	2. The facility plans and conducts an inservice staff development program for all personnel to assist them in developing and improving their skills.				
F621	3. The facility maintains a record of the orientation and staff development programs it conducts.				
F622	4. The record includes the content of the program and the names of participants.				
F623	5. Inservice training includes at least prevention and control of infections, fire prevention and safety, confidentiality of resident information, and preservation of resident dignity including protection of resident's privacy and personal and property rights.				

NAME OF FACILITY

CODE	MEDICAL DIRECTION	YES	NO	N/A	EXPLANATORY STATEMENT
Medical Direction (Condition of Participation)					
F624	SNF (405.1122) ☐ MET ☐ NOT MET The facility has a written agreement with a licensed physician to serve as Medical Director on a part-time or full-time basis as is appropriate to the needs of the residents and the facility. (See 405.1911(b) regarding waiver of this requirement.)				
A. Coordination of Medical Care					
F625	SNF (405.1122(a)) (Standard) ☐ MET ☐ NOT MET				
F626	1. Medical direction and coordination of medical care in the facility are provided by a Medical Director.				
F627	2. The Medical Director is responsible for development of policies approved by the governing body.				
F628	3. Coordination of medical care includes liaison with attending physicians to ensure their writing orders promptly upon admission of a resident, and periodic evaluation of the adequacy and appropriateness of health professional and supportive staff and services.				
B. Responsibilities to the Facility					
F629	SNF (405.1122(b)) (Standard) ☐ MET ☐ NOT MET				
F630	1. The Medical Director is responsible for surveillance of the health status of the facility's employees.				
F631	2. Incidents and accidents that occur on the premises are reviewed by the Medical Director to identify hazards to health and safety.				

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CODE	PHYSICIAN SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
	Physician Services (Condition of Participation)				
F632	SNF (405.1123) Residents in need of skilled or rehabilitative care are admitted to the facility only upon the recommendation of, and remain under the care of, a physician. To the extent feasible, each resident designates a personal physician.	☐	☐	☐	
	A. Physician Supervision				
F633	SNF (405.1123(b)) (Standard) ☐ MET ☐ NOT MET				
F634	ICF (442.346) (Standard) ☐ MET ☐ NOT MET				
F635	1. The facility has a policy that the health care of every resident must be under the supervision of a physician.				
F636	2. All attending physicians must make arrangements for the medical care of their residents in their absence.				
	B. Emergency Services				
F637	SNF (405.1123(c)) (Standard) ☐ MET ☐ NOT MET The facility has written procedures available at each nurses' station, that provide for having a physician available to furnish necessary medical care in case of emergency.				

NAME OF FACILITY

CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F638	Nursing Services (Condition of Participation) SNF (405.1124) ☐ MET ☐ NOT MET The facility provides 24-hour service by licensed nurses, including the services of a registered nurse at least during the day tour of duty, 7 days a week. There is an organized nursing service with a sufficient number of qualified nursing personnel to meet the total nursing needs of all residents (See 405.1911(a) regarding waiver of the 7-day registered nurse requirement).				
F639	ICF (442.342) (Standard) ☐ MET ☐ NOT MET The facility provides nursing care as needed including restorative nursing care.				
F640	A. Director of Nursing Services SNF (405.1124(a)) (Standard) ☐ MET ☐ NOT MET				
F641	1. The director of nursing services is a qualified registered nurse employed full-time.				
F642	2. The director of nursing services has, in writing, administrative authority, responsibility, and accountability for the functions, activities, and training of the nursing services staff, and serves only one facility in this capacity.				
F643	3. If the director of nursing services has other institutional responsibilities, a qualified registered nurse serves as assistant so that there is the equivalent of a full-time director of nursing services on duty.				

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CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
	B. Health Services Supervision				
F644	ICF (442.339) (Standard) ☐ MET ☐ NOT MET				
F645	1. The facility has a full-time registered nurse, or a licensed practical or vocational nurse to supervise the health services 7 days a week on the day shift.				
F646	2. The nurse has a current State license.				
F647	3. If the supervisor of health services is a licensed practical or vocational nurse, the facility has a formal contract with a registered nurse to serve as a consultant no less than 4 hours a week.				
F648	4. To qualify to serve as a health services supervisor, a licensed practical or vocational nurse must: a. Have graduated from a State-approved school of practical nursing, or				
F649	b. Have education or other training that the State authority responsible for licensing practical nurses considered equal to graduation from a State-approved school of practical nursing, or				
F650	c. Have passed the Public Health Service examination for waived licensed practical or vocational nurses.				
F651	5. If the nurse in charge is licensed by the State in a category other than registered nurse or licensed practical or vocational nurse: a. The individual has completed a training program to get the license that includes at least the same number of classroom and practice hours in all nursing subjects as in the program of a State-approved school of practical or vocational nursing, and				

NAME OF FACILITY

CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F652	b. The State agency responsible for licensing the individual submits a report to the Medicaid agency comparing State-licensed practical nurse or vocational nurse course requirements with those for the program completed by the individual.				
	C. Twenty-four Hour Nursing Service				
F653	SNF (405.1124(c)) (Standard) ☐ MET ☐ NOT MET				
F654	ICF (442.338) (Standard) ☐ MET ☐ NOT MET				
F655	1. 24-Hour Nursing Nursing policies and procedures address the total nursing needs of the residents.				
F656	The policies are designed to ensure that each resident receives: Treatment.				
F657	Medications as prescribed.				
F658	Diet as prescribed.				
F659	Rehabilitative nursing care as needed.				
F660	Proper care to prevent decubitus ulcers and deformities.				
F661	Proper care to ensure that residents are clean, well-groomed and comfortable.				
F662	Protection from accident and injury.				
F663	Protection from infection.				
F664	Encouragement, assistance, and training in self-care and group activities.				

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NAME OF FACILITY

CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F665	2. Weekly time schedules are maintained and indicate the number and classifications of nursing personnel including relief personnel, who worked on each unit for each tour of duty.				
	D. Rehabilitative Nursing Care				
F666	SNF (405.1124(e)) (Standard) ☐ MET ☐ NOT MET				
F667	Nursing personnel are trained in rehabilitative nursing.				
	E. Supervision of Resident Nutrition				
F668	SNF (405.1124(f)) (Standard) ☐ MET ☐ NOT MET				
F669	A procedure is established to inform dietetic service of physicians' diet orders and of residents' dietetic problems.				
	F. Administration of Drugs				
F670	SNF (405.1124(g)) (Standard) ☐ MET ☐ NOT MET				
F671	Procedures are established by the Pharmaceutical Services Committee (see 405.1127(d)) to ensure that drugs are checked against physicians' orders.				
	G. Conformance with Physicians' Drug Orders				
F672	SNF (405.1124(h)) (Standard) ☐ MET ☐ NOT MET Indicators 1 thru 4 apply to SNFs.				
F673	ICF (442.335) (Standard) ☐ MET ☐ NOT MET				
F674	1. Drugs not specifically limited as to time or number of doses when ordered are controlled by automatic stop orders or other methods in accordance with written policies.				

NAME OF FACILITY		NURSING SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
CODE							
F675	2. The attending physician is notified of an automatic stop order prior to the last dose so that the physician may decide if the administration of the drug or biological is to be continued or altered.						
F676	ICF (442.334) (Standard) ☐ MET ☐ NOT MET						
F677	3. Physicians' verbal orders for drugs are given only to a licensed nurse, pharmacist, or physician and are immediately recorded and signed by the person receiving the order. (Verbal orders for Schedule II drugs are permitted only in the case of a bona fide emergency situation.)						
F678	4. Such orders are countersigned by the attending physician within a reasonable time.						
	H. Storage of Drugs and Biologicals						
F679	SNF (405.1124(i)) (Standard) ☐ MET ☐ NOT MET						
F680	1. Procedures for storing and disposing of drugs and biologicals are established by the pharmaceutical services committee.						
F681	2. In accordance with State and Federal laws, all drugs and biologicals are stored in locked compartments under proper temperature controls.						
F682	3. Only authorized personnel have access to the keys.						
F683	4. Separately locked, permanently affixed compartments are provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention & Control Act of 1970 and other drugs subject to abuse, except under single unit dosage distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.						
F684	5. An emergency medication kit approved by the pharmaceutical services committee is kept readily available.						

NAME OF FACILITY

CODE	DIETETIC SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F685	Dietetic Services (Condition of Participation) SNF (405.1125) ☐ MET ☐ NOT MET The facility provides a hygienic dietetic service that meets the daily nutritional needs of patients, ensures that special dietary needs are met, and provides palatable and attractive meals. A facility that has a contract with an outside food management company may be found to be in compliance with this condition provided the facility and/or company meets the standards listed herein.				
	A. Staffing				
F686	SNF (405.1125(a)) (Standard) ☐ MET ☐ NOT MET				
F687	1. Overall supervisory responsibility for the dietetic service is assigned to a full-time qualified dietetic service supervisor.				
F688	2. If the dietetic service supervisor is not a qualified dietitian, the dietetic service supervisor functions with frequent, regularly scheduled consultation from a person so qualified. (§405.1101(e).)				
F689	3. In addition, the facility employs sufficient supportive personnel competent to carry out the functions of the dietetic service.				
F690	4. If consultant dietetic services are used, the consultant's visits are at appropriate times, and of sufficient duration and frequency to provide continuing liaison with medical and nursing staffs, advice to the administrator, resident counseling, guidance to the supervisor and staff of the dietetic service, approval of all menus, and participation in the development or revisions of dietetic policies and procedures. (See §405.1121(i).)				

NAME OF FACILITY		DIETETIC SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
CODE							
	B. Staffing						
F691	ICF (442.332) (Standard)	☐ MET	☐ NOT MET				
F692	1. The facility has a staff member trained or experienced in food management or nutrition who is responsible for:						
	a. Planning meals that meet the nutritional needs of each resident.						
F693	b. Following the orders of the resident's physician.						
F694	c. To the extent medically possible, following the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences (Recommended Dietary Allowances, 8th Ed., 1974).						
F695	d. Supervising the meal preparation and service to ensure that the menu plan is followed.						
F696	2. For residents who required medically prescribed special diets, the facility:						
	a. Has menus for those residents planned by a professionally qualified dietitian or reviewed and approved by the attending physician; and						
F697	b. Supervises the preparation and serving of meals to ensure that the resident accepts the special diet.						
F698	3. The facility keeps for 30 days a record of each menu as served.						

NAME OF FACILITY		DIETETIC SERVICES/ SPECIALIZED REHABILITATION SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
	C. Hygiene of Staff						
F699	SNF (405.1125(f)) (Standard) ☐ MET ☐ NOT MET						
F700	In the event food service employees are assigned duties outside the dietetic service, these duties do not interfere with the sanitation, safety, or the time required for dietetic work assignments. (See §405.1121(g).)						
	D Sanitary Conditions						
F701	SNF (405.1125(g)) (Standard) ☐ MET ☐ NOT MET						
F702	Written reports of inspections by State and local health authorities are on file at the facility, with notation made of action taken by the facility to comply with any recommendations.						
	Specialized Rehabilitation Services (Condition of Participation)						
F703	SNF (405.1126) ☐ MET ☐ NOT MET The facility provides, or arranges for, under written agreement, specialized rehabilitative services by qualified personnel (i.e., physical therapy, speech pathology and audiology, and occupational therapy) as needed by residents to improve and maintain functioning. Safe and adequate space and equipment are available, commensurate with the services offered. If the facility does not offer such services directly, it does not admit nor retain residents in need of this care unless provision is made for such services under arrangement with qualified outside resources under which the facility assumes professional responsibility for the services rendered. (See §405.1121(i).)						

NAME OF FACILITY		SPECIALIZED REHABILITATION SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
A. Staffing and Organization							
F704	SNF (405.1126(a)) (Standard)	☐ MET	☐ NOT MET				
Indicators 1 thru 3 apply to SNFs							
F705	ICF (442.343) (Standard)	☐ MET	☐ NOT MET				
F706	1. Specialized rehabilitative services are provided, in accordance with accepted professional practices, by qualified therapists or by qualified assistants or other supportive personnel under the supervision of qualified therapists.						
F707	2. Other rehabilitative services also may be provided, but must be in a facility where all rehabilitative services are provided through an organized rehabilitative service under the supervision of a physician qualified in physical medicine who determines the goals and limitations of these services and assigns duties appropriate to the training and experience of those providing such services. Exception: Does not apply to ICFs.						
F708	3. Written administrative and resident care policies and procedures are developed for rehabilitative services by appropriate therapists and representatives of the medical, administrative, and nursing staffs. Exception: Does not apply to ICF's See General Requirements 442.305						

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CODE	SPECIALIZED REHABILITATION SERVICES/ PHARMACEUTICAL SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
	B. Documentation of Services				
F709	SNF (405.1126(c)) (Standard) ☐ MET ☐ NOT MET The physician's order, the plan of rehabilitative care, services rendered, evaluations of progress, and other pertinent information are recorded in the patient's medical record, and are dated and signed by the physician ordering the service and the person who provided the service.				
	C. Qualifying to Provide Outpatient Physical Therapy Services				
F710	SNF (405.1126(d)) (Standard) ☐ MET ☐ NOT MET If the facility provides outpatient physical therapy services, it meets the applicable health and safety regulations pertaining to such services as are included in Subpart Q of this part. (See §405.1719, 405.1720, 405.1722(a) and (b)(1)(2)(3)(i), (4), (5), (6), (7), and (8); and 405.1725.)				
	Pharmaceutical Services (Condition of Participation)				
F711	SNF (405.1127) ☐ MET ☐ NOT MET The facility has appropriate methods and procedures for the dispensing and administering of drugs and biologicals. The facility is responsible for providing such drugs and biologicals for its residents, insofar as they are covered under the programs, and for ensuring that pharmaceutical services are provided in accordance with accepted professional principles.				

NAME OF FACILITY

CODE	PHARMACEUTICAL SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
A. Supervision of Services					
F712	SNF (405.1127(a)) (Standard) ☐ MET ☐ NOT MET				
F713	1. The pharmaceutical services are under the general supervision of a qualified pharmacist.				
F714	2. The pharmacist is responsible to the administrative staff for developing coordinating, and supervising all pharmaceutical services.				
F715	3. The pharmacist (if not a full-time employee) devotes a sufficient number of hours, based upon the needs of the facility, during regularly scheduled visits to carry out these responsibilities.				
F716	ICF (442.333) (Standard) ☐ MET ☐ NOT MET				
F717	1. The facility employs a licensed pharmacist, or				
F718	2. The facility has formal arrangements with a licensed pharmacist to advise the facility on ordering, storage, administration, disposal and recordkeeping of drugs and biologicals.				
B. Control and Accountability					
F719	SNF (405.1127(b)) (Standard) ☐ MET ☐ NOT MET				
F720	1. The pharmaceutical service has procedures for control and accountability of all drugs and biologicals throughout the facility.				
F721	2. Only approved drugs and biologicals are used in the facility.				
F722	3. Records of receipt and disposition of all controlled drugs are maintained in sufficient detail to enable an accurate reconciliation.				

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CODE	PHARMACEUTICAL SERVICES/ LABORATORY AND RADIOLOGIC SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
	C. Pharmaceutical Services Committee				
F723	SNF (405.1127(d)) (Standard) ☐ MET ☐ NOT MET				
F724	1. A pharmaceutical services committee or its equivalent develops written policies and procedures for safe and effective drug therapy, distribution, control and use.				
F725	2. The committee is comprised of at least the pharmacist, the director of nursing services, the administrator, and one physician.				
F726	3. The committee oversees pharmaceutical services in the facility, makes recommendations for improvement, and monitors the service to ensure its accuracy and adequacy.				
	Laboratory and Radiologic Services (Condition of Participation)				
F727	SNF (405.1128) ☐ MET ☐ NOT MET The facility has provision for promptly obtaining required laboratory, X-ray, and other diagnostic services.				
	A. Provision for Services				
F728	SNF (405.1128(a)) (Standard) ☐ MET ☐ NOT MET				
F729	1. If the facility provides its own laboratory and X-ray services, these meet the applicable conditions established for certification of hospitals that are contained in 405.1028 and 405.1029, respectively.				

NAME OF FACILITY

CODE	LABORATORY AND RADIOLOGIC SERVICES/ DENTAL SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F730	2. If the facility itself does not provide such services, arrangements are made for obtaining these services from a physician's office, a participating hospital or skilled nursing facility, or a portable X-ray supplier or independent laboratory which is approved to provide these services under the program.				
F731	3. The facility assists the resident, if necessary, in arranging for transportation to and from the source of service.				
	B. Blood and Blood Products				
F732	SNF (405.1128(b)) (Standard) ☐ MET ☐ NOT MET				
F733	1. Blood handling and storage facilities are safe, adequate, and properly supervised.				
F734	2. If the facility provides for maintaining and transfusing blood and blood products, it meets the conditions established for certification of hospitals that are contained in §405.1028(j).				
F735	3. If the facility does not provide its own facility but does provide transfusion services alone, it meets at least the requirements of §405.1028(j)(1), (3), (4), (6), and (9).				
	Dental Services (Condition of Participation)				
F736	SNF (405.1129) ☐ MET ☐ NOT MET The facility has satisfactory arrangements to assist residents to obtain routine and emergency dental care (See §405.1121(i)). (The basic Hospital Insurance Program does not cover the services of a dentist in a skilled nursing facility in connection with the care, treatment, filling, removal, or replacement of teeth or structures supporting the teeth; and only certain oral surgery is included in the Supplemental Medical Insurance Program.)				

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NAME OF FACILITY

NAME OF FACILITY

CODE	DENTAL SERVICES/SOCIAL SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
	A. Advisory Dentist				
F737	SNF (405.1129(a)) (Standard) ☐ MET ☐ NOT MET				
F738	A dentist recommends oral hygiene policies and practices for the care of residents. (§405.1121(h).)				
	B. Arrangements of Outside Services				
F739	SNF (405.1129(b)) (Standard) ☐ MET ☐ NOT MET				
F740	1. The facility has a cooperative agreement with a dentist, and				
F741	2. Maintains a list of dentists in the community for residents who do not have a private dentist.				
F742	3. The facility assists the resident, if necessary, in arranging for transportation to and from the dentist's office.				
	Social Services (Condition of Participation)				
F743	SNF (405.1130) ☐ MET ☐ NOT MET The facility has satisfactory arrangements for identifying the medically related social and emotional needs of the resident. It is not mandatory that the skilled nursing facility itself provide social services in order to participate in the program. If the facility does not provide social services, it has written procedures for referring residents in need of social services to appropriate social agencies. If social services are offered by the facility, they are provided under a clearly defined plan, by qualified persons, to assist each resident to adjust to the social and emotional aspects of the resident's illness, treatment, and stay in the facility.				

NAME OF FACILITY		SOCIAL SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
CODE							
A. Social Service Functions							
F744	SNF (405.1130(a)) (Standard)	☐ MET	☐ NOT MET				
F745	Services are provided to meet the social and emotional needs of residents by qualified staff of the facility, or by referral, based on established procedures, to appropriate social agencies.						
F746	ICF (442.344(b)) The facility either provides these services itself or arranges for them with qualified outside resources.	☐ MET	☐ NOT MET				
B. Staffing							
F747	SNF (405.1130(b)) (Standard)	☐ MET	☐ NOT MET				
F748	1. If the facility offers social services, a member of the staff of the facility is designated as responsible for social services.						
F749	2. If the designated person is not a qualified social worker, the facility has a written agreement with a qualified social worker or recognized social agency for consultation and assistance on a regularly scheduled basis. (See §405.1101(s).)						
F750	3. The social service also has sufficient supportive personnel to meet resident needs.						
F751	4. Facilities are adequate for social service personnel, easily accessible to residents and medical and other staff, and ensure privacy for interviews.						

NAME OF FACILITY

CODE	SOCIAL SERVICES/ACTIVITIES	YES	NO	N/A	EXPLANATORY STATEMENT
F752	ICF (442.344(c)) ☐ MET ☐ NOT MET				
F753	The facility designates one staff member, qualified by training or experience, to be responsible for: a. Arranging for social services; and				
F754	b. Integrating social services with other elements of the plan of care.				
	C. Records and Confidentiality				
F755	SNF (405.1130(c)) (Standard) ☐ MET ☐ NOT MET				
F756	Records of pertinent social data about personal and family problems medically related to the resident's illness and care, and of action taken to meet the resident's needs, are maintained in the resident's medical records.				
F757	If social services are provided by an outside resource, a record is maintained of each referral to such resource.				
	Activities (Condition of Participation)				
F758	SNF (405.1131) ☐ MET ☐ NOT MET The facility provides for an activities program, appropriate to the needs and interests of each resident, to encourage self care, resumption of normal activities, and maintenance of an optimal level of psychosocial functioning.				

NAME OF FACILITY		EXPLANATORY STATEMENT	
CODE	ACTIVITIES/MEDICAL RECORDS	YES	NO
A. Staffing			
F759	SNF (405.1131(a)) (Standard) ☐ MET ☐ NOT MET		
F760	A member of the facility's staff is designated as responsible for the activities program.		
F761	If not a qualified activities coordinator, this staff member functions with frequent, regularly scheduled consultation from a person so qualified. (See §405.1101(o).)		
F762	ICF (442.345(b)) ☐ MET ☐ NOT MET The facility designates one staff member, qualified by training or experience in directing group activity, to be responsible for activity service.		
Medical Records (Condition of Participation)			
F763	SNF (405.1132) ☐ MET ☐ NOT MET The facility maintains clinical (medical) records on all residents in accordance with accepted professional standards and practices. The medical record service has sufficient staff, facilities, and equipment to provide medical records that are completely and accurately documented, readily accessible, and systematically organized to facilitate retrieving and compiling information.		
F764	ICF (442.318(a)) ☐ MET ☐ NOT MET The facility maintains an organized resident record system that contains a record for each resident.		

NAME OF FACILITY

CODE	MEDICAL RECORDS	YES	NO	N/A	EXPLANATORY STATEMENT
A. Staffing					
F765	SNF (405.1132(a)) (Standard) ☐ MET ☐ NOT MET				
F766	1. Overall supervisory responsibility for the medical record service is assigned to a full-time employee of the facility.				
F767	2. The facility also employs sufficient supportive personnel competent to carry out the functions of the medical record service.				
F768	3. If the medical record supervisor is not a qualified medical record practitioner, this person functions with consultation from a person qualified. (See §405.1101(f).)				
B. Protection of Medical Record Information					
F769	SNF (405.1132(b)) (Standard) ☐ MET ☐ NOT MET				
F770	ICF (442.318(d)) ☐ MET ☐ NOT MET				
F771	The facility safeguards medical record information against loss, destruction, or unauthorized use.				
C. Physician Documentation					
F772	SNF (405.1132(d)) (Standard) ☐ MET ☐ NOT MET				
F773	1. Only physicians enter or authenticate in medical records opinions that require medical judgment (in accordance with medical staff bylaws, rules, and regulations, if applicable).				
F774	2. All physicians sign their entries into the medical record.				

NAME OF FACILITY

CODE	MEDICAL RECORDS	YES	NO	N/A	EXPLANATORY STATEMENT
	D. Completion of Records and Centralization of Reports				
F775	SNF (405.1132(e)) (Standard) ☐ MET ☐ NOT MET				
F776	1. Current medical records and those of discharged residents are completed promptly.				
F777	2. All clinical information pertaining to a resident's stay is centralized in the resident's medical record.				
	E. Retention and Preservation				
F778	SNF (405.1132(f)) (Standard) ☐ MET ☐ NOT MET Medical records are retained for a period of time not less than that determined by the respective State statute, the statute of limitations in the State, or 5 years from the date of discharge in the absence of a State statute, or, in the case of a minor, 3 years after the resident becomes of age under State law.				
F779	ICF (442.318(e)) ☐ MET ☐ NOT MET The facility must keep a resident's record for at least 3 years after the resident is discharged.				
	F. Location and Facilities				
F780	SNF (405.1132(h)) (Standard) ☐ MET ☐ NOT MET The facility maintains adequate facilities and equipment, conveniently located to provide efficient processing of medical records (reviewing, indexing, filing, and prompt retrieval).				

NAME OF FACILITY

CODE	TRANSFER AGREEMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	Transfer Agreement (Condition of Participation)				
F781	SNF (405.1133) ☐ MET ☐ NOT MET				
F782	ICF (442.316) (Standard) ☐ MET ☐ NOT MET				
F783	The facility has in effect a transfer agreement with one or more hospitals approved for participation under the programs, which provides the basis for effective working arrangements under which inpatient hospital care or other hospital services are available promptly to the facility's residents when needed. (A facility that has been unable to establish a transfer agreement with the hospital(s) in the community or service area after documented attempts to do so is considered to have such an agreement in effect.) Exception: A facility that has been unable to establish a written agreement after documented attempts to do so, is considered to have such an agreement.				
	Resident Transfer				
F784	SNF (405.1133(a)) (Standard) ☐ MET ☐ NOT MET				
F785	A hospital and a skilled nursing facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case of two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that: 1. Transfer of patients will be effected between the hospital and the skilled nursing facility, ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician.				

NAME OF FACILITY

CODE	TRANSFER AGREEMENT/PHYSICAL ENVIRONMENT	YES	NO	N/A	EXPLANATORY STATEMENT
F786	2. There will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.				
F787	3. Security and accountability for residents' personal effects are provided on transfer.				
	Physical Environment (Condition of Participation)				
F788	SNF (405.1134) ☐ MET ☐ NOT MET The facility is constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.				
	A. Life Safety from Fire				
	SNF (405.1134(a)) (Standard) ☐ MET ☐ NOT MET				
	ICF (442.321) (Standard) ☐ MET ☐ NOT MET				
	(See appropriate HCFA Fire Safety survey form.)				
	B. Maintenance of Equipment, Building, and Grounds				
F789	SNF (405.1134(i)) (Standard) ☐ MET ☐ NOT MET				
F790	The facility establishes a written preventative maintenance program to ensure that all equipment is operative.				

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NAME OF FACILITY

NAME OF FACILITY

CODE	INFECTION CONTROL	YES	NO	N/A	EXPLANATORY STATEMENT
	Infection Control (Condition of Participation)				
F791	SNF (405.1135) ☐ MET ☐ NOT MET The facility establishes an infection control committee of representative professional staff with responsibility for overall infection control in the facility. All necessary housekeeping and maintenance services are provided to maintain a sanitary and comfortable environment and to help prevent the development and transmission of infection.				
	A. Infection Control Committee				
F792	SNF (405.1135(a)) (Standard) ☐ MET ☐ NOT MET				
F793	1. The infection control committee is composed of members of the medical and nursing staffs, administration, and the dietetic, pharmacy, housekeeping, maintenance, and other services.				
F794	2. The committee establishes policies and procedures for investigating, controlling, and preventing infection in the facility.				
F795	3. The committee monitors staff performance to ensure that the policies and procedures are executed.				
	B. Aseptic and Isolation Techniques				
F796	SNF (405.1135(b)) (Standard) ☐ MET ☐ NOT MET				
F797	1. The facility has written procedures for aseptic and isolation techniques.				
F798	2. These procedures are reviewed and revised for effectiveness and improvement as necessary.				

NAME OF FACILITY

CODE	INFECTION CONTROL	YES	NO	N/A	EXPLANATORY STATEMENT
C. Housekeeping					
F799	SNF (405.1135(c)) (Standard) ☐ MET ☐ NOT MET				
F800	1. The facility employs sufficient housekeeping personnel.				
F801	2. Provides all necessary equipment to maintain a safe, clean and orderly interior.				
F802	3. A full-time employee is designated responsible for the services and for supervision and training of personnel.				
F803	4. If a facility has a contract with an outside resource for housekeeping services, the facility and/or outside resource meets the requirements of the standards.				
D. Pest Control					
F804	SNF (405.1135(e)) (Standard) ☐ MET ☐ NOT MET The facility has an ongoing pest control program.				

NAME OF FACILITY

NAME OF FACILITY

CODE	DISASTER PREPAREDNESS	YES	NO	N/A	EXPLANATORY STATEMENT
	Disaster Preparedness (Condition of Participation)				
F805	SNF (405.1136) The facility has a written plan, periodically rehearsed, with procedures to be followed in the event of an internal or external disaster and for the care of casualties (residents and personnel) arising from such disasters.	☐	☐	☐	
	A. Plan				
F806	ICF (442.313) (Standard) ☐ MET ☐ NOT MET				
F807	1. The facility has a written plan for staff and residents to follow in case of emergencies such as fire or explosion.				
F808	2. The facility rehearses the plan regularly.				
F809	3. The facility has written procedures for the staff to follow in case of an emergency involving an individual resident.				
F810	4. These procedures include: a. Caring for the resident.				
F811	b. Notifying the attending physician and other individuals responsible for the resident.				
F812	c. Arranging for transportation, hospitalization, and other appropriate services.				
F813	SNF (405.1136(a)) (Standard) ☐ MET ☐ NOT MET				
F814	1. The facility has an acceptable written plan in operation, with procedures to be followed in the event of fire, explosion, or other disaster.				
F815	2. The plan is developed and maintained with the assistance of qualified fire, safety, and other appropriate experts.				

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NAME OF FACILITY

CODE	DISASTER PREPAREDNESS/UTILIZATION REVIEW	YES	NO	N/A	EXPLANATORY STATEMENT
F816	3. Includes procedures for prompt transfer of casualties and records.				
F817	4. Instructions regarding the location and use of alarm systems and signals and of fire-fighting equipment.				
F818	5. Information regarding methods of containing fire.				
F819	6. Procedures for notification of appropriate persons.				
F820	7. Specifications of evacuation routes and procedures. (See §405.1134(a).)				
	B. Orientation and training				
F821	SNF (405.1136(b)) (Standard) ☐ MET ☐ NOT MET				
F822	The disaster program includes orientation and ongoing training and drills for all personnel in all procedures so that each employee promptly and correctly carries out a specific role in case of a disaster (See §405.1121(h).)				
	Utilization Review (Condition of Participation)				
F823	SNF (405.1137) ☐ MET ☐ NOT MET The facility carries out utilization review of the services provided in the facility to residents who are entitled to benefits under the program(s). Utilization review assures the maintenance of high quality care and appropriate and efficient utilization of facility services. There are two elements to utilization review: medical care evaluation studies and review of extended duration cases.				

NAME OF FACILITY

NAME OF FACILITY

CODE	UTILIZATION REVIEW	YES	NO	N/A	EXPLANATORY STATEMENT
	A. Plan				
F824	SNF (405.1137(a)) (Standard) ☐ MET ☐ NOT MET				
F825	1. The facility has a currently applicable written description of its utilization review plan.				
F826	2. Such description includes: a. The organization and composition of the committee or group which will be responsible for the utilization review function.				
F827	b. Methods of criteria (including norms where available) to be used to define periods of continuous extended duration and to assign or select subsequent dates for continued stay review.				
F828	c. Methods for selection and conduct of medical care evaluation studies.				
	B. Organization and Composition of Utilization Review Committees				
F829	SNF (405.1137(b)) (Standard) ☐ MET ☐ NOT MET				
F830	1. The utilization review (UR) function is conducted by: a. A staff committee of the skilled nursing facility which is composed of two or more physicians, with participation of other professional personnel; or,				

NAME OF FACILITY		UTILIZATION REVIEW		YES	NO	N/A	EXPLANATORY STATEMENT
CODE							
F831	b. A group outside the facility which is similarly composed and which is established by the local medical or osteopathic society and some or all of the hospitals and skilled nursing facilities in the locality; or (indicate name of the outside group and briefly describe the organization.)						
F832	c. A group established and organized in a manner approved by the Secretary that is capable of performing such function.						
F833	2. The medical care evaluation studies, educational duties of the review program, and the review of admissions and long-stay cases are performed by: a. the same committee or group; b. or more committees or groups. Briefly explain who performs these functions.						
F834							
	C. Medical Care Evaluation Studies						
F835	SNF (405.1137(c)) (Standard) ☐ MET ☐ NOT MET						
F836	1. Medical care evaluation studies are performed to promote the most effective and efficient use of available health facilities and services consistent with resident needs and professionally recognized standards of health care.						
F837	2. Studies emphasize identification and analysis of patterns of resident care and suggest, where appropriate, possible changes for maintaining consistently high quality care and effective and efficient use of services.						

NAME OF FACILITY

CODE	UTILIZATION REVIEW	YES	NO	N/A	EXPLANATORY STATEMENT
F838	3. Each medical care evaluation study identifies and analyzes factors related to the care rendered in the facility and where indicated, results in recommendations for change beneficial to residents, staff, the facility, and the community.				
F839	4. Studies, on a sample or other basis, include, but need not be limited to, admissions, durations of stay, ancillary services furnished (including drugs and biologicals), and professional services performed on premises.				
F840	At least one study was completed during the last year. Type of study last completed: _____				
	D. Extended Stay Review				
F841	SNF (405.1137(d)) (Standard) ☐ MET ☐ NOT MET				
F842	1. Periodic review is made of each current inpatient skilled nursing facility beneficiary case of continuous extended duration, and the length of which is defined in the utilization review plan to determine whether further inpatient stay is necessary.				
F843	2. The review is based on the attending physician's reasons for and plan for continued stay and any other documentation the committee or group deems appropriate.				
F844	3. Cases are screened by: a. A qualified non-physician representative of the committee.				
F845	b. The group.				
F846	c. The reviewer uses criteria established by the physician members of the committee.				

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NAME OF FACILITY

CODE	UTILIZATION REVIEW	YES NO		N/A	EXPLANATORY STATEMENT
F847	4. In instances when non-physician members are utilized, those cases are referred to a physician member for further review when it appears that the resident no longer requires further inpatient care.				
F848	5. Non-physician representatives used to screen extended stay review cases, have experience in such screening or appropriate training in the application of the screening criteria used, or both.				
F849	6. Before the expiration of each new period, the case must be reviewed again in like manner with such reviews being repeated as long as the stay continues beyond the scheduled review dates and notice has not been given pursuant to paragraph (e) of this section.				
	E. Further Stay Not Medically Necessary				
F850	SNF (405.1137(e)) (Standard) ☐ MET ☐ NOT MET				
F851	1. A final determination of the committee or group that continued stay is not medically necessary is made by at least two physician members of the committee or group, except that the final determination may be made by one physician where the attending physician, when given an opportunity to express his views, does not do so, or does not contest the finding that the continued stay is not medically necessary.				
F852	2. If the committee or group, or its nonphysician representative where a physician member concurs, has reason to believe from the review of an extended duration case or a case reviewed as part of a medical care evaluation study that further stay is no longer medically necessary, the committee or group shall notify the individual's attending physician and afford him an opportunity to present his views before it makes a final determination.				

NAME OF FACILITY

NAME OF FACILITY

CODE	UTILIZATION REVIEW	YES	NO	N/A	EXPLANATORY STATEMENT
F853	3. If the final determination of the committee or group is that further stay is no longer medically necessary, written notification of the finding is given to the facility, the attending physician, and the individual (or where appropriate, his next of kin) no later than 2 days after such final determination is made and, in no event in the case of an extended duration case, later than 3 working days after the end of the extended duration period specified pursuant to paragraph (d) of this section.				
	F. Administrative Responsibilities				
F854	SNF (405.1137(f)) (Standard) ☐ MET ☐ NOT MET				
F855	The administrative staff of the facility is kept directly and fully informed of committee activities to facilitate support and assistance. (Explain)				
	G. Utilization Review Records				
F856	SNF (405.1137(g)) (Standard) ☐ MET ☐ NOT MET				
F857	1. Written records of committee activities are maintained.				
F858	2. Appropriate reports, signed by the committee chairman, are made regularly to the medical staff, administrative staff, governing body, and sponsors (if any).				
F859	3. Minutes of each committee meeting is maintained and include at least: a. Name of committee.				
F860	b. Date and duration of meeting.				
F861	c. Names of committee members present and absent.				

NAME OF FACILITY

CODE	UTILIZATION REVIEW	YES	NO	N/A	EXPLANATORY STATEMENT
F862	4. Description of activities presently in progress to satisfy the requirements for medical care evaluation studies, including the subject, reason for study, dates of commencement and expected completion, summary of studies completed since the last meeting, conclusions and follow-up on implementation of recommendations made from previous studies.				
F863	5. Summary of extended duration cases reviewed including the number of cases, identification number, admission and review dates, and decision reached, including the basis for each determination and action taken for each case not approved for extended care.				
F864	H. Discharge Planning SNF (405.1137(h)) (Standard) ☐ MET ☐ NOT MET The facility maintains a centralized, coordinated program to ensure that each resident has a planned program of continuing care which meets his postdischarge needs.				
F865	1. The facility has in operation an organized discharge planning program.				
F866	The utilization review committee, in its evaluation of the current status of each extended duration case, has available to it the results of such discharge planning and information on alternative available community resources to which the resident may be referred.				
F867	2. The facility maintains written discharge planning procedures which describe: a. How the discharge coordinator will function, and his authority and relationships with the facility's staff. b. The maximum time period after which reevaluation of each resident's discharge plan is made.				
F868					

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NAME OF FACILITY

NAME OF FACILITY

CODE	UTILIZATION REVIEW	YES	NO	N/A	EXPLANATORY STATEMENT
F869	c. Local resources available to the facility, the resident, and the attending physician to assist in developing and implementing individual discharge plans; and				
F870	d. Provisions for periodic review and reevaluation of the facility's discharge planning program.				
F871	3. At the time of discharge, the facility provides those responsible for the resident's post discharge care with appropriate summary of information about the discharged resident to ensure the optimal continuity of care.				
	The discharge summary includes at least the following:				
F872	a. Current information relative to diagnoses.				
F873	b. Rehabilitation potential.				
F874	c. A summary of the course of prior treatment.				
F875	d. Physician orders for the immediate care of the resident.				
F876	e. Pertinent social information.				

§ 488.105 Long term care survey forms, Part B.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATIONFORM APPROVED
OMB NO. 0938-0400

PART B

MEDICARE / MEDICAID SKILLED NURSING FACILITY AND INTERMEDIATE CARE FACILITY SURVEY REPORT

PROVIDER NUMBER

FACILITY NAME AND ADDRESS (City, State, Zip)

VENDOR NUMBER

SURVEY DATE

SURVEYORS' NAMES

TITLES

SURVEY TEAM COMPOSITION

F1 Indicate the Number of Surveyors According to Discipline

A.	Administrator	
B.	Nurse	
C.	Dietitian	
D.	Pharmacist	
E.	Records Administrator	
F.	Social Worker	
G.	Qualified Mental Health Professional	

Note: More than one discipline may be marked for surveyors qualified in multiple disciplines.

F2 Indicate the Total Number of Surveyors Onsite: _____

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(CONTINUED ON REVERSE)

Page 1

RESIDENT CENSUS AND CONDITIONS OF RESIDENTS

F6
TOTAL RESIDENTSF5
OTHERF4
MEDICAIDF3
MEDICARE

PROVIDER NO.

CODE

BATHING

- F7 — Number of residents requiring assistance in bathing more than one part of body—or does not bathe self.
- F8 — Number of residents requiring assistance in bathing only a single part (as back or disabled extremity) or bathes self completely.
- F9 — TOTAL*

DRESSING

- F10 — Number of residents totally dressed by another person.
- F11 — Number of residents needing assistance to dress self or remain partly dressed. (Exclude those residents totally dressed.)
- F12 — Number of residents able to get clothes from closets and drawers—puts on clothes, outer garments, braces—manages fasteners. Act of tying shoes is excluded.
- F13 — TOTAL*

TOILETING

- F14 — Number of residents not toileted. (Use protective padding, catheter.)
- F15 — Number of residents who must use a bedpan or commode and/or receive assistance in getting to and using a toilet.
- F16 — Number of residents able to get to toilet—gets on and off toilet—cleans self—arranges clothes.
- F17 — TOTAL*

TRANSFERRING

- F18 — Number of residents needing assistance in all transfers (moving in or out of bed and/or chair, toilet, tub transfers).
- F19 — Number of residents needing assistance in transferring to toilet and tub only.
- F20 — Number of residents able to complete all transfers independently (may or may not be using mechanical supports).
- F21 — Total*

CONTINENCE

- F22 — Number of residents with indwelling or external catheters.
- F23 — Number of residents with partial or total incontinence in urination or defecation—partial or total control by suppositories or enemas, regulated use of urinals and/or bedpans.
- F24 — Number of residents with urination and defecation entirely self-controlled.
- F25 — TOTAL*

FEEDING

- F26 — Number of residents who receive enteral/parenteral feedings.
- F27 — Number of residents who receive NG tube feedings.
- F28 — Number of residents who require assistance in act of eating.
- F29 — Number of residents who get food from plate or its equivalent into mouth—(pre-cutting of meat and preparation of food, buttering bread, opening cartons, removing plate covers, etc., are excluded from evaluation).
- F30 — TOTAL*

- F31 — Number of completely bedfast residents.
- F32 — Number of chairbound residents.
- F33 — Number of ambulatory residents (may use cane, walker, or crutches).
- F34 — Number of physically restrained residents (belt, vest, cuffs).
- F35 — Number of residents receiving psychotropic drugs.
- F36 — Number of confused or disoriented residents.
- F37 — Number of residents with decubiti.
- F38 — Number of residents on individually written bowel and bladder retraining program.
- F39 — Number of residents receiving special skin care.
- F40 — Number of residents receiving intravenous therapy and/or blood transfusion.
- F41 — Number of residents requiring no assistance in ADLs.
- F42 — Number of residents on self-administration of drugs.
- F43 — Number of residents with contractures.
- F44 — Number of residents receiving respiratory care.
- F45 — Number of residents receiving tracheostomy care.
- F46 — Number of residents receiving suctioning.
- F47 — Number of residents receiving rehabilitative services (physical therapy, speech pathology and audiology, occupational therapy).
- F48 — Number of residents receiving injections.
- F49 — Number of residents receiving colostomy care.

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*MUST EQUAL TOTAL NUMBER OF RESIDENTS IN FACILITY

Page 2

NAME OF FACILITY

CODE	GOVERNING BODY	YES	NO	N/A	EXPLANATORY STATEMENT
	GOVERNING BODY (CONDITION OF PARTICIPATION)				
F50	SNF (405.1121) ☐ MET ☐ NOT MET				
	RESIDENT RIGHTS				
F51	SNF (405.1121(k)) (Standard) ☐ MET ☐ NOT MET				
	Indicators A thru K apply to this standard for SNFs				
F52	ICF (442.311) (Standard) ☐ MET ☐ NOT MET				
	Indicators A thru K apply to this standard for ICFs				
	A. Information				
F53	1. The facility informs each resident, before or at the time of admission, of his/her rights and responsibilities.				
F54	2. The facility informs each resident, before or at the time of admission, of all rules governing resident conduct.				
F55	3. The facility informs each resident of amendments to their policies on residents' rights and responsibilities and rules governing conduct.				
F56	4. Each resident acknowledges in writing receipt of residents' rights information and any amendment to it.				
F57	5. The resident must be informed in writing of all services and charges for services.				
F58	6. The resident must be informed in writing of all changes in services and charges before or at the time of admission and on a continuing basis.				
F59	7. The resident must be informed of services not covered by Medicare or Medicaid and not covered in the basic rate.				

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NAME OF FACILITY

NAME OF FACILITY

CODE	GOVERNING BODY	YES	NO	N/A	EXPLANATORY STATEMENT
	B. Medical Condition and Treatment				
F60	1. Each resident is informed by a physician of his/her health and medical condition unless the physician decides that informing the resident is medically contraindicated.				
F61	2. Each resident is given an opportunity to participate in planning his/her total care and medical treatment.				
F62	3. Each resident is given an opportunity to refuse treatment.				
F63	4. Each resident gives informed, written consent before participating in experimental research.				
F64	5. If the physician decides that informing the resident of his/her health and medical condition is medically contraindicated, the physician has documented this decision in the resident's medical record.				
	C. Transfer and Discharge				
	Each resident is transferred or discharged only for:				
F65	1. Medical reasons.				
F66	2. His/her welfare or that of other residents.				
F67	3. Nonpayment except as prohibited by the Medicare or Medicaid program.				
F68	4. Each resident is given reasonable advance notice to ensure orderly transfer or discharge. EXCEPTION: Not required for ICF residents.				
	D. Exercising Rights				
F69	1. Each resident is encouraged and assisted to exercise his/her rights as a resident of the facility and as a citizen.				
F70	2. Each resident is allowed to submit complaints and recommendations concerning the policies and services of the facility to staff or to outside representatives of the resident's choice or both.				

NAME OF FACILITY

CODE	GOVERNING BODY	YES	NO	N/A	EXPLANATORY STATEMENT
F71	3. Such complaints are submitted free from restraint, coercion, discrimination, or reprisal.				
	E. Financial Affairs				
F72	1. Residents are allowed to manage their own personal financial affairs.				
F73	2. The facility establishes and maintains a system that assures full and complete accounting of residents' personal funds. An accounting report is made to each resident in a skilled nursing facility at least on a quarterly basis.				
F74	3. The facility does not commingle resident funds with any other funds.				
F75	4. If a resident requests assistance from the facility in managing his/her personal financial affairs, resident's delegation is in writing.				
	5. The facility system of accounting includes written receipts for:				
F76	All personal possessions and funds received by or deposited with the facility.				
F77	All disbursements made to or for the resident.				
F78	6. The financial record must be available to the resident and his/her family.				
	F. Freedom from Abuse and Restraints				
F79	1. Each resident is free from mental and physical abuse.				
F80	2. Chemical and physical restraints are only used when authorized by a physician in writing for a specified period of time or in emergencies.				

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NAME OF FACILITY

NAME OF FACILITY

NAME OF FACILITY		GOVERNING BODY		YES	NO	N/A	EXPLANATORY STATEMENT
CODE							
F81	3. If used in emergencies, they are necessary to protect the resident from injury to himself/herself or others.						
F82	4. The emergency use is authorized by a professional staff member identified in the written policies and procedures of the facility.						
F83	5. The emergency use is reported promptly to the resident's physician by the staff member.						
	G. Privacy						
F84	1. Each resident is treated with respect, consideration and full recognition of his/her dignity and individuality.						
F85	2. Each resident is given privacy during treatment and care of personal needs.						
F86	3. Each resident's records, including information in an automated data bank, are treated confidentially.						
F87	4. Each resident must give written consent before the facility releases information from his/her record to someone not otherwise authorized to receive it.						
F88	5. Married residents are given privacy during visits by their spouses.						
F89	6. Married residents are permitted to share a room.						
	H. Work						
F90	No resident may be required to perform services for the facility.						

NAME OF FACILITY

CODE	GOVERNING BODY	YES	NO	N/A	EXPLANATORY STATEMENT
	I. Freedom of Association and Correspondence				
F91	1. Each resident is allowed to communicate, associate and meet privately with individuals of his/her choice unless this infringes upon the rights of another resident.				
F92	2. Each resident is allowed to send and receive personal mail unopened.				
	J. Activities				
F93	Each resident is allowed to participate in social, religious, and community group activities.				
	K. Personal Possessions				
F94	Each resident is allowed to retain and use his/her personal possessions and clothing as space permits.				
	L. Delegation of Rights and Responsibilities				
F95	ICF (442.312) (Standard) ☐ MET ☐ NOT MET				
F96	1. All the rights and responsibilities of a resident pass to the resident's guardian, next of kin or sponsoring agency or agencies if the resident is adjudicated incompetent under State law or is determined by his/her physician to be incapable of understanding his/her rights and responsibilities.				
F97	2. Physician determinations of incapability and the specific reasons thereof are recorded by the physician in the resident's record.				

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NAME OF FACILITY

NAME OF FACILITY

CODE	GOVERNING BODY	YES	NO	N/A	EXPLANATORY STATEMENT
F98	STAFF DEVELOPMENT SNF (405.1121(h)) (Standard) ☐ MET ☐ NOT MET				
F99	ICF (442.314) (Standard) ☐ MET ☐ NOT MET				
F100	1. Facility staff are knowledgeable about the problems and needs of the aged, ill, and disabled.				
F101	2. Facility staff practices proper techniques in providing care to the aged, ill, and disabled.				
F102	3. Facility staff practice proper technique for prevention and control of infection, fire prevention and safety, accident prevention, confidentiality of resident information, and preservation of resident dignity, including protection of privacy and personal and property rights.				
	STATUS CHANGE NOTIFICATIONS				
F103	SNF (405.1121(j)) (Standard) ☐ MET ☐ NOT MET				
F104	ICF (442.307) (Standard) ☐ Met ☐ Not Met				
F105	1. The facility notifies the resident's attending physician and other responsible persons in the event of an accident involving the resident, or other significant change in the resident's physical, mental, or emotional status, or resident charges, billings, and related administrative matters.				
F106	2. Except in a medical emergency, a resident is not transferred or discharged, nor is treatment altered radically, without consultation with the resident or, if the resident is incompetent, without prior notification of next of kin or sponsor.				

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NAME OF FACILITY

CODE	PHYSICIANS' SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
	PHYSICIANS' SERVICES (CONDITION OF PARTICIPATION)					
F107	SNF (405.1123)	☐ MET ☐ NOT MET				
	A. Medical Findings and Orders at Time of Admission					
F108	SNF (405.1123(a)) (Standard)	☐ MET ☐ NOT MET				
F109	1. There is made available to the facility prior to or at the time of admission, resident information which includes current medical findings, diagnoses, and orders from a physician for immediate care of the resident.					
F110	2. Information about the rehabilitation potential of the resident and a summary of prior treatment are made available to the facility at the time of admission or within 48 hours thereafter.					

NAME OF FACILITY

NAME OF FACILITY

EXPLANATORY STATEMENT

CODE	PHYSICIANS' SERVICES	YES	NO	N/A
	B. Resident Supervision by Physician			
F111	SNF (405.1123(b)) (Standard) ☐ MET ☐ NOT MET			
F112	ICF (442.346) (Standard) ☐ MET ☐ NOT MET Indicators B and C apply to this standard for ICFs			
F113	1. Every resident must be under the supervision of a physician.			
F114	2. A physician prescribes a planned regimen of care based on a medical evaluation of each resident's immediate and long-term care needs. Exception: Not required for ICF residents			
F115	3. A physician is available to provide care in the absence of any resident's attending physician.			
F116	4. Medical evaluation is done within 48 hours of admission unless done within 5 days prior to admission. Exception: Not required for ICF residents.			
F117	5. Each resident is seen by their attending physician at least once every 30 days for the first 90 days after admission. Exception: ICF residents must be seen every 60 days unless otherwise justified and documented by the attending physician.			
F118	6. Each resident's total program of care including medications and treatments is reviewed during a visit by the attending physician at least once every 30 days for the first 90 days and revised as necessary. Exception: Only medications must be reviewed quarterly for ICF residents.			

NAME OF FACILITY

CODE	PHYSICIANS' SERVICES/NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F119	7. Progress notes are written and signed by the physician at the time of each visit, and all orders are signed by the physician.				
F120	8. Alternate physician visit schedules that exceed a 30-day schedule adopted after the 90th day following admission are justified by the attending physician in the medical record. These visits cannot exceed 60 days or apply to residents who require specialized rehabilitation schedules. EXCEPTION: Not required for ICF residents.				
	C. Emergency Services				
F121	SNF (405.1123(c)) (Standard) ☐ MET ☐ NOT MET				
F122	Emergency services from a physician are available and provided to each resident who requires emergency care.				
	NURSING SERVICES (CONDITION OF PARTICIPATION)				
F123	SNF (405.1124) ☐ MET ☐ NOT MET				
F124	SNF (405.1124(c)) (Standard) ☐ Met ☐ Not Met Indicators A and B apply to this standard for SNFs				
F125	ICF (442.338) ☐ Met ☐ Not Met Indicators A thru E apply to this standard for ICFs except where noted.				
	A. The facility provides nursing services which are sufficient to meet nursing needs of all residents all hours of each day.				
F126	1. Each resident receives all treatments, medications and diet as prescribed. Deviations are reported and appropriate action is taken.				

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NAME OF FACILITY

NAME OF FACILITY

EXPLANATORY STATEMENT

CODE	NURSING SERVICES	YES	NO	N/A
F127	2. Each resident receives daily personal hygiene as needed to assure cleanliness, good skin care, good grooming, and oral hygiene taking into account individual preferences. Residents are encouraged to engage in self care activity.			
F128	3. Each resident receives care necessary to prevent skin breakdown.			
F129	4. Each resident with a decubitus receives care necessary to promote the healing of the decubitus including proper dressing.			
F130	5. When residents require restraints the application is ordered by the physician, applied properly, and released at least every 2 hours.			
F131	6. Each resident with incontinence is provided with care necessary to encourage continence including frequent toileting and opportunities for rehabilitative training.			
F132	7. Each resident with a urinary catheter receives proper routine care including periodic evaluation.			
F133	8. Each resident receives proper care for the following needs: Injections Parenteral Fluids Colostomy/Ileostomy Respiratory Care Tracheostomy Care Suctioning Tube Feeding			
F134	9. Infection Control Techniques are properly carried out in the provision of care to each resident.			

NAME OF FACILITY

CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F135	10. Proper nursing and sanitary procedures and techniques are used when medications are given to residents.				
F136	11. Adequate resident care supplies are available for providing treatments.				
	B. Twenty-Four Hour Nursing Service				
F137	1. Nursing personnel, including registered nurses, licensed practical (vocational) nurses, nurse aides, orderlies, and ward clerks, are assigned duties consistent with their education and experience, and based on the characteristics of the resident load. EXCEPTION: Not required for ICFs.				
F138	2. Weekly time schedules are maintained and indicate the number and classifications of nursing personnel including relief personnel, who worked on each unit for each tour of duty. (If a distinct part certification, show the staffing for the DP and, if appropriate, any nonparticipating remainder and explain any sharing of nursing personnel.) Exception: Not required for Freestanding ICFs.				
F139	3. There is a sufficient number of nursing staff available to meet the total needs of all residents.				
F140	4. There is a registered nurse on the day tour of duty 7 days a week. Exception: Not required for ICF residents.				

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NAME OF FACILITY

NAME OF FACILITY

CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
	C. Charge Nurse				
F141	SNF (405.1124(b)) (Standard) ☐ MET ☐ NOT MET				
F142	1. A registered nurse or a qualified licensed practical (or vocational) nurse is designated as charge nurse by the director of nursing for each tour of duty. Exception: Not required for ICFs.				
F143	2. The director of nursing services does not serve as charge nurse in a facility with an average daily total occupancy of 60 or more residents. Exception: Not required for ICFs.				
F144	3. The ICF must have a registered nurse, or a licensed practical or vocational nurse full-time, 7 days a week, on the day shift. Exception: Not required for SNFs.				

NAME OF FACILITY

List the number of full-time equivalents of RN's, LPN's, Aides/Orderlies assigned to nursing duty from the last 3 complete weeks. (Note only actual staff on duty.)

Shift	CODE	Day 1			Day 2			Day 3			Day 4			Day 5			Day 6			Day 7		
		RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A
DAY	DP	F145																				
	Entire Facility	F146																				
EVENING	DP	F147																				
	Entire Facility	F148																				
NIGHT	DP	F149																				
	Entire Facility	F150																				

Shift	CODE	Day 1			Day 2			Day 3			Day 4			Day 5			Day 6			Day 7		
		RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A
DAY	DP																					
	Entire Facility																					
EVENING	DP																					
	Entire Facility																					
NIGHT	DP																					
	Entire Facility																					

NAME OF FACILITY

NAME OF FACILITY

Shift	CODE	Day 1		Day 2		Day 3		Day 4		Day 5		Day 6		Day 7		
		RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A
DAY	DP															
	F151															
EVENING	Entire Facility															
	F152															
NIGHT	DP															
	F153															
	Entire Facility															
	F154															
	DP															
	F155															
	Entire Facility															
	F156															

STAFFING PATTERN WORKSHEETS DAY OF SURVEY (OPTIONAL)**ENTIRE FACILITY STAFFING PATTERN (DAY OF SURVEY)**

	CODE	RN	PN	A
DAY	F157			
	F158			
EVENING	F159			
	F160			
NIGHT	F161			
	F162			

UNIT STAFFING PATTERN WORKSHEET (DAY OF SURVEY)

	CODE	Unit			Unit			Unit			Unit			Unit		
		RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A	RN	PN	A
DAY	F163															
EVENING	F164															
NIGHT	F165															
CENSUS	F166															

NAME OF FACILITY

CODE	NURSING SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
	D PATIENT CARE MANAGEMENT					
F167	SNF (405.1124(d)) (Standard)	☐ MET ☐ NOT MET				
F168	ICF (442.341) (Standard)	☐ MET ☐ NOT MET				
F169	1 Each resident's needs are addressed in a written plan of care which demonstrates that the plans of all services are integrated, consonant with the physician's plan of medical care, and implemented shortly after admission.					
F170	2 Each professional service identifies needs, goals, plans, and evaluates the effectiveness of interventions, plus institutes changes in the plan of care in a timely manner.					
	E. Rehabilitative Nursing Services are performed daily, and recorded for those residents who require such service.					
F171	SNF (405.1124(e)) (Standard)	☐ MET ☐ NOT MET				
F172	ICF (442.342) (Standard)	☐ Met ☐ Not Met				
F173	1. Each resident receives rehabilitative nursing care to promote maximum physical functioning to prevent immobility, deformities, and contractures.					
F174	2. There is an ongoing evaluation of each resident's rehabilitative nursing needs. This may include:					
F175	(a) Range of motion, ambulation, turning and positioning and other activities;					
F176	(b) Assistance and instruction in the activities of daily living such as feeding, dressing, grooming, oral hygiene and toilet activities;					
F177	(c) Remotivation therapy and/or reality orientation when appropriate.					
F178	3. These activities are coordinated with other resident care services.					

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NAME OF FACILITY

NAME OF FACILITY

CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F179	F. The facility has an awareness of nutritional needs and fluid intake of residents and provides prompt assistance where necessary in feeding residents. SNF (405.1124(f)) (Standard) ☐ MET ☐ NOT MET				
F180	1. Each resident is provided with the amount of food and fluid on a daily basis necessary to maintain their appropriate minimum average weight. Between meal feedings are offered and the amount consumed is observed. Daily food and fluid intake is observed and encouraged.				
F181	2. Each resident needing assistance in eating or drinking is provided prompt assistance. Specific self-help devices are available when necessary.				
F182	3. Deviations from normal food and fluid intake are recorded and reported to the charge nurse and the attending physician.				

NAME OF FACILITY

CODE	NURSING SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
	G. Administration of Drugs				
F183	SNF (405.1124(g)) (Standard) ☐ MET ☐ NOT MET				
F184	ICF (442.337) (Standard) ☐ MET ☐ NOT MET				
F185	1. The resident is identified prior to administration of a drug.				
F186	2. Drugs and biologicals are administered as soon as possible after doses are prepared.				
F187	3. Administered by same person who prepared the doses for administration except under single unit dose package distribution systems.				
F188	Exception: ICF residents may self administer medication only with their physician's permission.				
	H. Conformance with Physician Drug Orders				
F189	SNF (405.1124(h)) (Standard) ☐ MET ☐ NOT MET				
F190	ICF (442.334) (Standard) ☐ MET ☐ NOT MET				
F191	Drugs are administered in accordance with written orders of the attending physician.				
F192	Drug Error Rate _____ % (See Form HCFA-522)				

Form HCFA-519 (2-86)

NAME OF FACILITY

NAME OF FACILITY

CODE	DIETETIC SERVICES (CONDITION OF PARTICIPATION)	YES	NO	N/A	EXPLANATORY STATEMENT
F193	SNF (405.1125) ☐ MET ☐ NOT MET				
F194	ICF (442.332) (Standard) ☐ MET ☐ NOT MET Indicators A and B apply to this standard for ICFs.				
F195	A. Menus and Nutritional Adequacy SNF (405.1125(b)) (Standard) ☐ MET ☐ NOT MET Menus are planned and followed to meet the nutritional needs of each resident in accordance with physicians' orders and, to the extent medically possible, based on the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.				
F196					
F197	B. Therapeutic Diets SNF (405.1125(c)) (Standard) ☐ MET ☐ NOT MET				
F198	1. Therapeutic diets are prescribed by the attending physician.				
F199	2. Therapeutic menus are planned in writing, prepared, and served as ordered with supervision from the dietitian and advice from the physician whenever necessary.				
F200	Number of Regular Diets _____				
F201	Number of Therapeutic Diets _____				
F202	Number of Mechanically Altered Diets _____				
F203	Number of Tube Feedings _____				

NAME OF FACILITY

CODE	DIETETIC SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
C. Preparation					
F204	SNF (405.1125(e)) (Standard) ☐ MET ☐ NOT MET				
F205	1. Food is prepared by methods that conserve its nutritive value and flavor.				
F206	2. Meals are palatable, served at proper temperatures. They are cut, ground, chopped, pureed or in a form which meets individual resident needs.				
F207	3. If a resident refuses food served, appropriate substitutes of similar nutritive value are offered.				
D. Frequency					
F208	SNF (405.1125(d)) (Standard) ☐ MET ☐ NOT MET				
F209	ICF (442.331) (Standard) ☐ MET ☐ NOT MET				
F210	1. At least three meals are served daily at regular hours with not more than a 14-hour span between a substantial evening meal and breakfast.				
F211	2. To the extent medically possible, bedtime nourishments are offered to all residents. Exception: Not required for ICF Residents.				
E. Staffing					
F212	SNF (405.1125.(a)) (Standard) ☐ MET ☐ NOT MET				
F213	1. Food service personnel are on duty daily over a period of 12 or more hours.				

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NAME OF FACILITY

NAME OF FACILITY

CODE	SPECIALIZED REHABILITATIVE SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
	SPECIALIZED REHABILITATIVE SERVICES (CONDITION OF PARTICIPATION)					
F214	SNF (405.1126)	☐ MET ☐ NOT MET				
F215	SNF (405.1126(b)) (Standard)	☐ MET ☐ NOT MET				
F216	ICF (442.343) (Standard)	☐ MET ☐ NOT MET				
F217	A. Plan of Care Rehabilitative services are provided under a written plan of care, initiated by the attending physician and developed in consultation with appropriate therapists(s) and the nursing service.					
F218	B. Therapy Therapy is provided according to orders of the attending physician in accordance with accepted professional practices by qualified therapists or qualified assistants.					
F219	C. Progress 1. A report of the resident's progress is communicated to the attending physician within 2 weeks of the initiation of specialized rehabilitative services. Exception: ICF resident's progress must be reviewed regularly.					

NAME OF FACILITY

CODE	SPECIALIZED REHABILITATIVE SERVICES/PHARMACEUTICAL SERVICES	YES	NO	N/A	EXPLANATORY STATEMENT
F220	2. The resident's progress is thereafter reviewed regularly, and the plan of rehabilitative care is reevaluated as necessary, but at least every 30 days, by the physician and the therapist. Exceptions: ICF residents' plans must be revised as necessary.				
	PHARMACEUTICAL SERVICES (CONDITION OF PARTICIPATION)				
F221	SNF (405.1127) ☐ MET ☐ NOT MET				
	A. Supervision				
F222	SNF (405.1127(a)) (Standard) ☐ MET ☐ NOT MET				
F223	ICF (442.336) (Standard) ☐ MET ☐ NOT MET				
F224	The pharmacist reviews the drug regimen of each resident at least monthly and reports any irregularities to the medical director and administrator.				

NAME OF FACILITY

CODE	PHARMACEUTICAL SERVICES		YES	NO	N/A	EXPLANATORY STATEMENT
	LABORATORY AND RADIOLOGIC SERVICES/SOCIAL SERVICES					
	B. Labeling of Drugs and Biologicals					
F225	SNF (405.1127(c)) (Standard)	☐ MET ☐ NOT MET				
F226	ICF (442.333) (Standard)	☐ MET ☐ NOT MET				
F227	The labeling of drugs and biologicals is based on currently accepted professional principles and includes the appropriate accessory and cautionary instructions as well as an expiration date when applicable.					
	LABORATORY AND RADIOLOGIC SERVICES (CONDITION OF PARTICIPATION)					
F228	SNF (405.1128)	☐ MET ☐ NOT MET				
F229	SNF (405.1128(a)) (Standard)	☐ MET ☐ NOT MET				
	Provision of Services					
F230	1. All services are provided only on the orders of a physician.					
F231	2. The attending physician is notified promptly of diagnostic findings.					
F232	3. Signed and dated reports of a clinical laboratory, X-ray and other diagnostic services are filed with the resident's medical record.					

NAME OF FACILITY

CODE	SOCIAL SERVICES/ACTIVITIES	YES	NO	N/A	EXPLANATORY STATEMENT
	SOCIAL SERVICES (CONDITION OF PARTICIPATION)				
F233	SNF (405.1130) ☐ MET ☐ NOT MET				
F234	SNF (405.1130(a)) (Standard) ☐ MET ☐ NOT MET				
F235	ICF (442.344) (Standard) ☐ MET ☐ NOT MET				
	A. Plan				
F236	The medically related social and emotional needs of the resident are identified.				
	B. Provision of Services				
F237	1. Services are provided to meet the social and emotional needs by the facility or by referral to an appropriate social agency.				
F238	2. If financial assistance is indicated, arrangements are made promptly for referral to an appropriate agency.				
	ACTIVITIES (CONDITION OF PARTICIPATION)				
F239	SNF(405.1131) ☐ MET ☐ NOT MET				
	Provision of Services				
F240	SNF (405.1131(b)) (Standard) ☐ MET ☐ NOT MET				

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NAME OF FACILITY

NAME OF FACILITY

CODE	ACTIVITIES	YES		NO		N/A	EXPLANATORY STATEMENT
F241	ICF (442.345) (Standard)	☐	☐	☐	☐		
F242	1. An ongoing program of meaningful activities is provided based on identified needs and interests of each resident. It is designed to promote opportunities for engaging in normal pursuits, including religious activities of their choice, if any.						
F243	2. Unless contraindicated by the attending physicians each resident is encouraged to participate in the activities program.						
F244	3. The activities promote the physical, social and mental well-being of the resident.						
F245	4. Equipment is maintained in good working order.						
F246	5. Supplies and equipment are available.						

NAME OF FACILITY		MEDICAL RECORDS		YES	NO	N/A	EXPLANATORY STATEMENT
MEDICAL RECORDS (CONDITION OF PARTICIPATION)							
F247	SNF (405.1132)	☐ MET	☐ NOT MET				
Content							
F248	SNF (405.1132(c)) (Standard)	☐ MET	☐ NOT MET				
F249	ICF (442.318) (Standard)	☐ MET	☐ NOT MET				
F250	1. The medical record contains sufficient information to identify the resident clearly, to justify diagnoses and treatment, and to document results accurately.						

NAME OF FACILITY

CODE	MEDICAL RECORDS	YES	NO	N/A	EXPLANATORY STATEMENT
	2. The medical record contains the following information:				
F251	a. Identification information				
F252	b. Admission data including past medical and social history				
F253	c. Transfer form, discharge summary from any transferring facility				
F254	d. Report of resident's attending physician				
F255	e. Report of physical examinations				
F256	f. Reports of physicians' periodic evaluations and progress notes				
F257	g. Diagnostic reports and therapeutic orders				
F258	h. Reports of treatments				
F259	i. Medications administered				
F260	j. An overall plan of care setting forth goals to be accomplished through each service's designed activities, therapies and treatments.				
F261	k. Assessments and goals of each service's plan of care				
F262	l. Treatments and services rendered				
F263	m. Progress notes				
F264	n. All symptoms and other indications of illness or injury including date, time and action taken regarding each problem.				

NAME OF FACILITY

CODE	TRANSFER AGREEMENT (CONDITION OF PARTICIPATION)	YES	NO	N/A	EXPLANATORY STATEMENT
F265	SNF (405.1133) ☐ MET ☐ NOT MET				
F266	SNF (405.1133(a)) (Standard) ☐ MET ☐ NOT MET				
F267	ICF (442.316) (Standard) ☐ MET ☐ NOT MET				
F268	A. Whenever the attending physician determines that a transfer is medically appropriate between a hospital or a facility providing more specialized care and the nursing facility, admission to the new facility shall be effected in a timely manner.				
F269	B. Information necessary for providing care and treatment to transferred individuals is provided.				

NAME OF FACILITY

NAME OF FACILITY

CODE	PHYSICAL ENVIRONMENT (CONDITION OF PARTICIPATION)	YES	NO	N/A	EXPLANATORY STATEMENT
F270	SNF (405.1134) ☐ MET ☐ NOT MET				
F271	A. Nursing Unit SNF (405.1134(d)) (Standard) ☐ MET ☐ NOT MET				
F272	1. The unit is properly equipped for preparation and storage of drugs and biologicals.				
F273	2. Utility and storage rooms are adequate in size.				
F274	3. The unit is equipped to register resident calls with a functioning communication system from resident areas including resident rooms and toilet and bathing facilities.				
F275	B. Dining and Activities Area SNF (405.1134(g)) (Standard) ☐ MET ☐ NOT MET				
F276	ICF (442.329) (Standard) ☐ MET ☐ NOT MET				
F277	1. The facility provides one or more clean, orderly and appropriately furnished rooms of adequate size, designated for resident dining and resident activities.				
F278	2. Dining and activity rooms are well lighted and ventilated.				
F279	3. Any multipurpose room used for dining and resident activities has sufficient space to accommodate all activities and prevent their interference with each other.				

NAME OF FACILITY

CODE	PHYSICAL ENVIRONMENT	YES	NO	N/A	EXPLANATORY STATEMENT
F280	SNF (405.1134(e)) (Standard) ☐ MET ☐ NOT MET INDICATORS C AND D APPLY TO THIS STANDARD FOR SNFS.				
	C. Resident Rooms				
F281	ICF (442.325) (Standard) ☐ MET ☐ NOT MET				
F282	1. Single resident rooms have at least 100 square feet.				
F283	2. Multiple resident rooms have no more than four residents and at least 80 square feet per resident.				
F284	3. Each room is equipped with or conveniently located near toilet and bathing facilities.				
F285	4. There is capability of maintaining privacy in each.				
F286	5. There is adequate storage space for each resident.				
F287	6. There is a comfortable and functioning bed and chair plus a functional cabinet and light.				
F288	7. The resident call system functions in resident rooms.				
F289	8. Each room is designed and equipped for adequate nursing care and the comfort and privacy of the residents.				
F290	9. Each room is at or above grade level.				
F291	10. Each room has direct access to a corridor and outside exposure. Exception: Not required for ICF residents.				

NAME OF FACILITY

CODE	PHYSICAL ENVIRONMENT	YES	NO	N/A	EXPLANATORY STATEMENT
	D. Toilet and Bath Facilities				
F292	ICF (442.326) (Standard) ☐ MET ☐ NOT MET				
F293	1. Facilities are clean, sanitary and free of odors.				
F294	2. Facilities have safe and comfortable hot water temperatures.				
F295	3. Facilities maintain privacy.				
F296	4. Facilities have grab bars and other safeguards against slipping.				
F297	5. Facilities have fixtures in good condition.				
F298	6. The resident call system functions in toilet and bath facilities.				
	E. Social Service Area				
F299	SNF (405.1130(b)) (Standard) ☐ MET ☐ NOT MET				
F300	1. Ensures privacy for social service interviewing.				
F301	2. Adequate space for clerical and interviewing functions is provided.				
F302	3. Facilities are easily accessible to residents and staff.				

NAME OF FACILITY

CODE	PHYSICAL ENVIRONMENT	YES	NO	N/A	EXPLANATORY STATEMENT
F. Therapy Areas					
F303	SNF (405.1126(a)) (Standard) ☐ MET ☐ NOT MET				
F304	ICF (442.328(a)) ☐ MET ☐ NOT MET				
F305	1. Space is adequate for proper use of equipment by all residents receiving treatments.				
F306	2. Equipment is safe and in proper working condition.				
G. Facilities for Special Care					
F307	SNF (405.1134(f)) (Standard) ☐ MET ☐ NOT MET				
F308	ICF (442.328(b)) ☐ MET ☐ NOT MET				
F309	1. Single rooms with private toilet and handwashing facilities are available for isolating residents.				
F310	2. Precautionary signs are used to identify these rooms when in use.				
H. Common Resident Areas					
F311	SNF (405.1134(j)) (Standard) ☐ MET ☐ NOT MET				
F312	ICF (442.324) (Standard) ☐ MET ☐ NOT MET				
F313	1. All common resident areas are clean, sanitary and free of odors.				
F314	2. Provision is made for adequate and comfortable lighting levels in all areas.				
F315	3. There is limitation of sounds at comfort levels.				

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NAME OF FACILITY

NAME OF FACILITY

CODE	PHYSICAL ENVIRONMENT	YES	NO	N/A	EXPLANATORY STATEMENT
F316	4. A comfortable room temperature is maintained.				
F317	5. There is adequate ventilation through windows or mechanical means or a combination of both.				
F318	6. Corridors are equipped with firmly secured handrails on each side.				
F319	7. Staff are aware of procedures to ensure water to all essential areas in the event of loss of normal supply.				
	I. Maintenance of Building and Equipment				
F320	SNF (405.1134(i)) (Standard) ☐ MET ☐ NOT MET				
F321	1. The interior and exterior of the building are clean and orderly.				
F322	2. All essential mechanical and electrical equipment is maintained in safe operating condition.				
F323	3. Sufficient storage space is available and used for equipment to ensure that the facility is orderly and safe.				
F324	4. Resident care equipment is clean and maintained in safe operating condition.				
F325	ICF (442.331(b)) ☐ MET ☐ NOT MET Indicators J thru L apply to ICFs.				
	J. Dietetic Service Area				
F326	SNF (405.1134(h)) (Standard) ☐ MET ☐ NOT MET				
F327	1. Kitchen and dietetic service areas are adequate to insure proper, timely food services for all residents				
F328	2. Kitchen areas are properly ventilated, arranged, and equipped for storage and preparation of food as well as for dish and utensil cleaning, and refuse storage and removal.				

NAME OF FACILITY

CODE	PHYSICAL ENVIRONMENT/INFECTION CONTROL	YES	NO	N/A	EXPLANATORY STATEMENT
	K. HYGIENE OF DIETARY STAFF				
F329	SNF (405.1125(f)) (Standard) ☐ Met ☐ Not Met				
F330	Dietetic service personnel practice hygienic food handling techniques.				
	L. DIETARY SANITARY CONDITIONS				
F331	SNF (405.1125(g)) (Standard) ☐ Met ☐ Not Met				
F332	1. Food is stored, refrigerated, prepared, distributed, and served under sanitary conditions.				
F333	2. Waste is disposed of properly.				
	M. Emergency Power				
F334	SNF (405.1134(b)) (Standard) ☐ MET ☐ NOT MET				
F335	1. An emergency source of electrical power necessary to protect the health and safety of residents is available in the event the normal electrical supply is interrupted.				
F336	2. Emergency power is adequate at least for lighting in all means of egress; equipment to maintain fire detection, alarm, and extinguishing systems; and life safety support systems.				
F337	3. Emergency power is provided by an emergency electrical generator located on the premises where life support systems are used.				
	INFECTION CONTROL (CONDITION OF PARTICIPATION)				
F338	SNF (405.1135) ☐ MET ☐ NOT MET				
	A. Infection Control				
F339	SNF (405.1135(b)) (Standard) ☐ MET ☐ NOT MET				
F340	Aseptic and isolation techniques are followed by all personnel.				

NAME OF FACILITY

CODE	INFECTION CONTROL/DISASTER PREPAREDNESS	YES	NO	N/A	EXPLANATORY STATEMENT
B. Sanitation					
F341	SNF (405.1135(c)) (Standard) ☐ MET ☐ NOT MET				
F342	The facility maintains a safe, clean, and orderly interior.				
C. Linen					
F343	SNF (405.1135(d)) (Standard) ☐ MET ☐ NOT MET				
F344	ICF (442.327) (Standard) ☐ MET ☐ NOT MET				
F345	1. The facility has available at all times a quantity of linen essential for proper care and comfort of residents.				
F346	2. Linens are handled; stored, processed, and transported in such a manner as to prevent the spread of infection.				
D. PEST CONTROL					
F347	SNF (405.1135(e)) (Standard) ☐ Met ☐ Not Met				
F348	ICF (442.315(c)) (Standard) ☐ Met ☐ Not Met				
F349	The facility is maintained free from insects and rodents.				
DISASTER PREPAREDNESS (CONDITION OF PARTICIPATION)					
F350	SNF (405.1136) ☐ MET ☐ NOT MET				
F351	SNF (405.1136(a)) (Standard) ☐ MET ☐ NOT MET				
F352	ICF (442.313) (Standard) ☐ MET ☐ NOT MET Indicators A and B apply to this standard for ICRs.				
A. Disaster Plan					
F353	1. Facility staff are aware of plans, procedures to be followed for fire, explosion or other disaster.				

NAME OF FACILITY		DISASTER PREPAREDNESS		YES	NO	N/A	EXPLANATORY STATEMENT
F354	2. Facility staff are knowledgeable about evacuation routes.						
F355	3. Facility staff are aware of their specific responsibilities in regard to evaluation and protection of residents.						
F356	4. Facility staff are aware of methods of containing fire.						
	B. Drills						
F357	SNF (405.1136(b)) (Standard) ☐ MET ☐ NOT MET						
F358	1. All employees are trained, as part of their employment orientation in all aspects of preparedness for any disaster.						
F359	2. Facility staff participate in ongoing training and drills in all procedures so that each employee promptly and correctly carries out a specific role in case of a disaster.						

SKILLED NURSING FACILITY & INTERMEDIATE CARE FACILITY

SURVEY REPORT — PART B

CRUCIAL DATA EXTRACT

(To be used with 2-86 Revision of Form HCFA-519)

PROVIDER NO.	FACILITY NAME	SURVEY DATE
--------------	---------------	-------------

SURVEY TEAM COMPOSITION

*F1: INDICATE THE NUMBER OF SURVEYORS ACCORDING TO DISCIPLINE:

A. _____	ADMINISTRATOR	H. _____	LIFE SAFETY CODE SPECIALIST
B. _____	NURSE	I. _____	LABORATORIAN
C. _____	DIETITIAN	J. _____	SANITARIAN
D. _____	PHARMACIST	K. _____	THERAPIST
E. _____	RECORDS ADMINISTRATOR	L. _____	PHYSICIAN
F. _____	SOCIAL WORKER	M. _____	NATIONAL INSTITUTE OF MENTAL HEALTH
G. _____	QUALIFIED MENTAL RETARDATION PROFESSIONAL	N. _____	OTHER

NOTE: MORE THAN ONE DISCIPLINE MAY BE MARKED FOR SURVEYORS QUALIFIED IN MULTIPLE DISCIPLINES.

*F2: INDICATE THE TOTAL NUMBER OF SURVEYORS ONSITE: _____

*P193 DRUG ERROR RATE: _____ % (Round % to nearest whole number.)

*SF5 Survey Form Indicator (Check one)

Traditional Survey

(1) ☐

New LTC Survey

(2) ☐

NOTE: PLEASE ATTACH COPY OF PAGES 2, 14 AND 15.

*Mandatory

Form HCFA-519E (2-86)

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0400

RESIDENTS SELECTED FOR INDEPTH REVIEW

PROVIDER NUMBER		SURVEY DATE		RESIDENT NAME (TARGETED)*	ROOM NUMBER	REASON FOR SELECTION
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						

FORM HCFA-520 (2-86)

* NOTE IF ICF OR SNF RESIDENT

* U.S. GPO: 1986 O-181-284/53839

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0400

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATIONFORM APPROVED
OMB NO. 0938-0400

TOUR NOTES WORKSHEET

PROVIDER NUMBER	SURVEY DATE	INSTRUCTIONS	INDEPTH SAMPLE
		1. Note care and problems in care on all units. 2. Report deficiencies directly to survey report form or evaluate further during in-depth sample review. 3. Select residents for in-depth review. 4. Select a proportionate number from each section.	Facility Census 0-60 61-120 121-200 200+ Sample Size 25% (Min10) 20% (Min15) 15% (Min30) (Max50)
OBSERVE RESIDENTS FOR THE FOLLOWING CARE PROBLEMS			
GROOMING/PERSONAL HYGIENE			
POSITIONING			
ASSISTIVE DEVICES			
AMBULATION			
RESTRAINTS			
HYDRATION			
INFECTION CONTROL			
PATIENT RIGHTS			
OTHER			

DRUG ERROR CALCULATION (SEE SOM Appendix N Part 2)

How to Calculate a Medication Error Rate—In calculating the percentage of errors, the numerator in the ratio is the total number of errors that you observe, both significant and non-significant. The denominator is all the doses observed being administered plus the doses ordered but not administered. The equation for calculating a medication error rate is as follows:

$$\text{Medication Error Rate} = \frac{\text{Number of errors observed}}{\text{Opportunities for errors}} \times 100$$

Where: Opportunities for errors equals the number of doses administered plus the number of doses ordered but not administered.

Comments

For example, you observed the administration of drugs to 20 patients. There were a total of 47 drugs administered (47 opportunities for errors). At the completion of the reconciliation of your Observations with the physicians' orders, you find that three medication errors were made in administration and one medication was omitted (ordered but not administered). The omitted dose is included in both the numerator and the denominator. Therefore, following the above formula, your equation would be as follows:

$$\frac{3 + 1}{47 + 1} \times 100 = 8.3\%$$

DINING AREA & EATING ASSISTANCE WORKSHEET

PROVIDER NUMBER

SURVEY DATE

INSTRUCTIONS

TASKS 1. Observe Dining Area

2. Note Meals Served/Review Physicians Orders.

3. Note Assistance Provided.

4. Note Deficiencies on Survey Summary Form.

* SAMPLE A MINIMUM OF FIVE (5) RESIDENTS *

1. DINING AREA AND MEALS

- a. Size does not restrict movement.
- b. Accommodates all residents.
- c. Cleanliness.
- d. Adequate/comfortable lighting.
- e. Adequate/comfortable ventilation.

2. SERVING OF MEALS *

- a. Number of meals/time span between meal.
- b. Conformance to physicians order.
- c. Nutritional adequacy.
- d. Adequacy of portions.
- e. Residents eat approximately 75% of meals.
- f. Puree dishes served individually.
- g. Food cut, chopped or ground for individual resident needs.
- h. Acceptable taste.
- i. Proper temperature.
- j. Plates covered.

2. SERVING OF MEALS * (continued)

- k. Served promptly.
- l. Residents ready for meal when served.
- m. Attractive.
- n. Utensils available.
- o. Functional trays for bedfast residents.
- p. Salt, pepper, sugar, other condiments on resident's trays unless contraindicated.
- q. Medically able residents eating in dining area.
- r. Bedtime nourishment offered.

3. SUPERVISION OF RESIDENT NUTRITION

- a. Prompt assistance.
- b. Proper assistance (spoon-feeding; supervision or instruction to develop eating skills).
- c. Courteous and unhurried assistance.
- d. Self-help devices present (straws, easy grip utensils, special cup, etc.).
- e. Intake recorded/deviations from normal are reported.

OBSERVATION/INTERVIEW OF: (RESIDENT IDENTIFIER)

PROVIDER NUMBER	SURVEY DATE	OBSERVATION/INTERVIEW OF: (RESIDENT IDENTIFIER)
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1. Observe each resident in sample to identify ADL needs and potential problems. Check appropriate blocks.
2. Interview only residents in sample who are capable and willing.
3. Review each resident's record to ensure assessments, plans, interventions and evaluations are appropriate and current.
4. Note deficiencies on survey report form after reviewing all residents in sample.

ADL's ☐ Bathing ☐ Dressing ☐ Toileting ☐ Transferring ☐ Continence ☐ Feeding	GROOMING/HYGIENE ☐ Eyes/Ears/Mouth ☐ Oral/Dental Hygiene ☐ Foot Care ☐ Facial Hair ☐ Hair/Scalp ☐ Nails ☐ Clothing ☐ Shoes/Slippers ☐ Odors	RESTRAINTS ☐ Type ☐ Inappropriate Application ☐ Inappropriate Body ☐ Alignment/Support ☐ Not Released/Exercised ☐ Every 2 Hours ☐ Chemically Restrained	COLOSTOMY/ILEOSTOMY ☐ Present ☐ Not Well Regulated ☐ Odors ☐ Diarrhea/Constipation ☐ Site Red/Irritated	RESPIRATORY ☐ Congested/Short ☐ Breath ☐ IPPB Not Available ☐ Oxygen Not Available ☐ Improper Equipment Use	REHABILITATION NEEDS ☐ Cannot Communicate ☐ Ineffective Use of Assistive Device ☐ Improper Equipment Use ☐ Improper Technique ☐ Equipment Inadequate	ACTIVITY NEEDS ☐ Not Participating ☐ Vision/Hearing ☐ Chair/Bedfast ☐ Dependence ≥ 4 ADL's
SKIN Tears/Wounds ☐ Ulcers ☐ Rash ☐ Flaking ☐ Scaling ☐ Red Area	POSITIONING ☐ Need Present ☐ Contracted ☐ Extremities ☐ Improper Position ☐ No Protective Device ☐ ROM Improper ☐ Lack of Turning as Needed ☐ Schedule Not Present ☐ Improper Techniques ☐ Aseptic/Other	BOWEL/BLADDER ☐ Incontinent ☐ Not Routinely Toileted ☐ Commode Not Available ☐ Schedule Not Available ☐ Catheter ☐ Present ☐ Inappropriate ☐ Poor Drainage ☐ Drainage System Open ☐ No Urine in Bag ☐ Urine Leaking ☐ Abdomen Distended ☐ Tubing Not Clean ☐ No I/O Recording ☐ Supply Storage Unclean	TRACHEOSTOMY ☐ Present ☐ Site Red/Swollen ☐ Obstructed ☐ Unclean ☐ Improper Suctioning ☐ Equipment Not Available	TUBE FEEDING ☐ Present ☐ Nutrition Inadequate ☐ Poorly Tolerated ☐ Vomits ☐ Dehydrated ☐ Over/Underweight ☐ Diarrhea/Constipation ☐ Poor Skin Condition ☐ Poor Mouth Condition ☐ Improper Technique	DIETARY NEEDS ☐ Over/Underweight ☐ Dehydrated ☐ Edema ☐ Emaciated ☐ Dull/Dry Hair ☐ Swollen/Red Tongue ☐ Bleeding Gums ☐ Cracked Lips ☐ Inability to Chew ☐ Swallowing Prob. ☐ Pallor	SOCIAL SERVICE NEEDS ☐ Not Oriented ☐ Not Able to Converse ☐ Uncooperative/Disrupts ☐ Withdrawn ☐ Anxious ☐ Confused ☐ Lonely ☐ Vision/Hearing Needs ☐ Mentally Retarded
DECUBITUS ☐ Grade ☐ Foul Odor ☐ Draining ☐ Dressing ☐ Unclean ☐ Not Dry ☐ Not Intact ☐ Poor Technique	DRESSINGS ☐ Present ☐ Unclean ☐ Not Dry ☐ Not Intact ☐ Foul Odor ☐ Poor Technique	INJECTIONS ☐ Receives Injections ☐ Site Red/Swollen ☐ Improper Technique ☐ Resident Reacts	SUCTIONING ☐ Need Present ☐ Audible Rales ☐ Labored Breathing ☐ Drainage ☐ Equipment Not Available	OTHER ☐ ☐ ☐ ☐	PATIENT RIGHTS ☐ Privacy Not Maintained ☐ Staff Not Courteous ☐ Not Informed of Rights ☐ Mental/Physical Abuse ☐ Cannot Exercise Rights ☐ Cannot Manage Affairs	

NOTES:

SEE REVERSE

Form HCFA-524 (2-86)

RECORD REVIEW

☐ Drug Regimen Review (See SOM Appendix N Part 1)
☐ Satisfactory ☐ Unsatisfactory

ROUTINE REPORTS

☐ Weights☐ Lab☐ X-ray☐ Other

ASSESSMENT

PLAN

INTERVENTION

EVALUATION

PHYSICIAN SERVICES

☐ Admission Information☐ Rehabilitation Information☐ Physical Exam☐ Written Care Plan☐ Signs Orders/Notes☐ Required Visits☐ Emergency Availability☐ Review of Care

BILLING CODE 4120-01-C

* U S GPO 1986-0-181 264/53635

§ 488.110 Procedural guidelines.

SNF/ICF Survey Process. The purpose for implementing a new SNF/ICF survey process is to assess whether the quality of care, as intended by the law and regulations, and as needed by the resident, is actually being provided in nursing homes. Although the onsite review procedures have been changed, facilities must continue to meet all applicable Conditions/Standards, in order to participate in Medicare/Medicaid programs. That is, the methods used to compile information about compliance with law and regulations are changed; the law and regulations themselves are not changed. The new process differs from the traditional process, principally in terms of its emphasis on resident outcomes. In ascertaining whether residents grooming and personal hygiene needs are met, for example, surveyors will no longer routinely evaluate a facility's written policies and procedures. Instead, surveyors will observe residents in order to make that determination. In addition, surveyors will confirm, through interviews with residents and staff, that such needs are indeed met on a regular basis. In most reviews, then, surveyors will ascertain whether the facility is actually providing the required and needed care and services, rather than whether the facility is capable of providing the care and services.

The Outcome-Oriented Survey Process—Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs)

- (a) General.
- (b) The Survey Tasks.
- (c) Task 1—Entrance Conference.
- (d) Task 2—Resident Sample—Selection Methodology.
- (e) Task 3—Tour of the Facility.
- (f) Task 4—Observation/Interview/Medical Record Review (including drug regimen review).
- (g) Task 5—Drug Pass Observation.
- (h) Task 6—Dining Area and Eating Assistance Observation.
- (i) Task 7—Forming the Deficiency Statement.
- (j) Task 8—Exit Conference.
- (k) Plan of Correction.
- (l) Followup Surveys.
- (m) Role of Surveyor.
- (n) Confidentiality and Respect for Resident Privacy.
- (o) Team Composition.
- (p) Type of Facility—Application of SNF or ICF Regulations.
- (q) Use of Part A and Part B of the Survey Report.

(a) *General.* A complete SNF/ICF facility survey consists of three components:

- Life Safety Code requirements;

- Administrative and structural requirements (Part A of the Survey Report, Form HCFA-525); and

- Direct resident care requirements (Part B of the Survey Report, Form HCFA-519), along with the related worksheets (HCFA-520 through 524).

Use this survey process for all surveys of SNFs and ICFs—whether freestanding, distinct parts, or dually certified. Do not use this process for surveys of Intermediate Care Facilities for Mentally Retarded (ICFs/MR), swing-bed hospitals or skilled nursing sections of hospitals that are not separately certified as SNF distinct parts. Do not announce SNF/ICF surveys ahead of time.

(b) *The Survey Tasks.* Listed below are the survey tasks for easy reference:

- Task 1. Entrance Conference.
- Task 2. Resident Sample—Selection Methodology.
- Task 3. Tour of the Facility. Resident Needs. Physical Environment. Meeting with Resident Council Representatives. Tour Summation and Focus of Remaining Survey Activity.
- Task 4. Observation/Interview/Medical Record. Review of Each Individual in the Resident Sample (including drug regimen review).
- Task 5. Drug Pass Observation.
- Task 6. Dining Area and Eating Assistance Observation.
- Task 7. Forming the Deficiency Statement (if necessary).
- Task 8. Exit Conference.

(c) *Task 1—Entrance Conference.* Perform these activities during the entrance conference in every certification and recertification survey:

- Introduce all members of the team to the facility staff, if possible, even though the whole team may not be present for the entire entrance conference. (All surveyors wear identification tags.)

- Explain the SNF/ICF survey process as resident centered in focus, and outline the basic steps.

- Ask the facility for a list showing names of residents by room number with each of the following care needs/treatments identified for each resident to whom they apply:

- Decubitus care
- Restraints
- Catheters
- Injections
- Parenteral fluids
- Rehabilitation service
- Colostomy/ileostomy care
- Respiratory care
- Tracheostomy care
- Suctioning
- Tube feeding

Use this list for selecting the resident sample.

- Ask the facility to complete page 2 of Form HCFA-519 (Resident Census) as soon as possible, so that the information can further orient you to the facility's population. In a survey of a SNF with a distinct part ICF, you may collect two sets of census data. However, consolidate the information when submitting it to the regional office. You may modify the Resident Census Form to include the numbers of licensed and certified beds, if necessary.

- Ask the facility to post signs on readily viewed areas (at least one on each floor) announcing that State surveyors are in the facility performing an "inspection," and are available to meet with residents in private. Also indicate the name and telephone number of the State agency. Hand-printed signs with legible, large letters are acceptable.

- If the facility has a Resident Council, make mutually agreeable arrangements to meet privately with the president and officers and other individuals they might invite.

- Inform the facility that interviews with residents and Resident Councils are conducted privately, unless they independently request otherwise, in order to enhance the development of rapport as well as to allay any resident anxiety. Tell the facility that information is gathered from interviews, the tour, observations, discussions, record review, and facility officials. Point out that the facility will be given an opportunity to respond to all findings.

(d) *Task 2—Resident Sample—Selection Methodology.* This methodology is aimed at formulating a sample that reflects the actual distribution of care needs/treatments in the facility population.

Primarily performed on a random basis, it also ensures representation in the sample of certain care needs and treatments that are assessed during the survey.

(1) *Sample Size.* Calculate the size of the sample according to the following guide:

Number of residents in facility	Number of residents in sample ¹
0-60 residents.	25% of residents (minimum—10).
61-120 residents.	20% of residents (minimum—15).
121-200 residents.	15% of residents (minimum—24).
201+ residents.	10% of residents (minimum—30).

¹ Maximum—50

Note that the calculation is based on the resident census, not beds. After determining the appropriate sample size, select residents for the sample in a random manner. You may, for example, select every fifth resident from the resident census, beginning at a random position on the list. For surveys of dually certified facilities or distinct part SNFs/ICFs, first use the combined SNF/ICF population to calculate the size of the sample, and then select a sample that reflects the proportions of SNF and ICF residents in the facility's overall population.

(2) *Special Care Needs/Treatments.* The survey form specifies several care needs/treatments that must always be reviewed when they apply to any facility residents. These include:

- Decubitus Care
- Restraints
- Catheters
- Injections, Parenteral Fluids, Colostomy/Ileostomy, Respiratory Care, Tracheostomy Care, Suctioning, Tube Feeding
- Rehabilitative Services (physical therapy, speech pathology and audiology services, occupational therapy)

Due to the relatively low prevalence of these care needs/treatments, appropriate residents may be either under-represented or entirely omitted from the sample. Therefore, determine during the tour how many residents in the random selection fall into each of these care categories. Then, compare the number of such residents in the random selection with the total number of residents in the facility with each specified care need/treatment (based on either the resident census or other information provided by the facility).

Review not less than 25 percent of the residents in each of these special care needs/treatments categories. For example, if the facility has 10 residents with decubitus ulcers, but only one of these residents is selected randomly, review two more residents with decubitus ulcers (25% of 10 equals 2.5, so review a total of 3). Or, if the facility has two residents who require tube feeding, neither of whom is in the random selection, review the care of at least one of these residents. This can be accomplished in the following manner:

Conduct in-depth reviews of the randomly selected residents and then perform limited reviews of additional residents as needed to cover the specified care categories. Such reviews are limited to the care and services related to the pertinent care areas only, e.g., catheters, restraints, or colostomy. Utilize those worksheets or portions of

worksheets which are appropriate to the limited review. Refer to the Care Guidelines, as a resource document, when appropriate.

Always keep in mind that neither the random selection approach nor the review of residents within the specified care categories precludes investigation of other resident care situations that you believe might pose a serious threat to a resident's health or safety. Add to the sample, as appropriate.

(e) *Task 3—Tour of the Facility.* (1) *Purpose.* Conduct the tour in order to:

- Develop an overall picture of the types and patterns of care delivery present within the facility;
- View the physical environment; and
- Ascertain whether randomly selected residents are communicative and willing to be interviewed.

(2) *Protocol.* You may tour the entire facility as a team or separately, as long as all areas of the facility are examined by at least one team member. Success of the latter approach, however, is largely dependent on open intra-team communication and the ability of each team member to identify situations for further review by the team member of the appropriate discipline. You may conduct the tour with or without facility staff accompanying you, as you prefer. Facilities, however, vary in staff member availability. Record your notes on the Tour Notes Worksheet, Form HCFA-521.

Allow approximately three hours for the tour. Converse with residents, family members/significant others (if present), and staff, asking open-ended questions in order to confirm observations, obtain additional information, or corroborate information, (e.g., accidents, odors, apparent inappropriate dress, adequacy and appropriateness of activities). Converse sufficiently with residents selected for in-depth review to ascertain whether they are willing to be interviewed and are communicative. Observe staff interactions with other staff members as well as with residents for insight into matters such as resident rights and assignments of staff responsibilities.

Always knock and/or get permission before entering a room or interrupting privacy. If you wish to inspect a resident's skin, observe a treatment procedure, or observe a resident who is exposed, courteously ask permission from the resident if she/he comprehends, or ask permission from the staff nurse if the resident cannot communicate. Do not do "hands-on" monitoring such as removal of dressings; ask staff to remove a dressing or handle a resident.

(3) *Resident Needs.* While touring, focus on the residents' needs—physical, emotional, psychosocial, or spiritual—and whether those needs are being met. Refer to the following list as needed:

- Personal hygiene, grooming, and appropriate dress
- Position
- Assistive and other restorative devices
- Rehabilitation issues
- Functional limitations in ADL
- Functional limitations in gait, balance and coordination
- Hydration and nutritional status
- Resident rights
- Activity for time of day (appropriate or inappropriate)
- Emotional status
- Level of orientation
- Awareness of surroundings
- Behaviors
- Cleanliness of immediate environment (wheelchair, bed, bedside table, etc.)
- Odors
- Adequate clothing and care supplies as well as maintenance and cleanliness of same

(4) *Review of the Physical Environment.* As you tour each resident's room and auxiliary rooms, also examine them in connection with the physical environment requirements. You need not document physical environment on the Tour Notes Worksheet. Instead, you may note any negative findings directly on the Survey Report Form in the remarks section.

(5) *Meeting With Resident Council Representatives.* If a facility has a Resident Council, one or more surveyors meet with the representatives in a private area. Facility staff members do not attend unless specifically requested by the Council. Explain the purpose of the survey and briefly outline the steps in the survey process, i.e., entrance conference * * * exit conference. Indicate your interest in learning about the strengths of the facility in addition to any complaints or shortcomings. State that this meeting is one part of the information gathering; the findings have not yet been completed nor the conclusions formulated. Explain further, however, that the official survey findings are usually available within three months after the completion of the survey, and give the telephone number of the State agency office.

Use this meeting to ascertain strengths and/or problems, if any, from the consumer's perspective, as well as to develop additional information about aspects of care and services gleaned during the tour that were possibly substandard.

Conduct the meeting in a manner that allows for comments about any aspect of the facility. (See the section on Interview Procedures.) Use open-ended questions such as:

- "What is best about this home?"
- "What is worst?"
- "What would you like to change?"

In order to get more detail, use questions such as:

- "Can you be more specific?"
- "Can you give me an example?"
- "What can anyone else tell me about this?"

If you wish to obtain information about a topic not raised by the residents, use an approach like the following:

- "Tell me what you think about the food/staff/cleanliness here."
- "What would make it better?"
- "What don't you like? What do you like?"

(6) *Tour Summation and Focus of Remaining Survey Activity.* When the tour is completed, review the resident census data provided by the facility. Determine if the care categories specified in the section on Resident Sample are sufficiently represented in the random selection, make adjustments as needed, and complete the listing of residents on the worksheet labeled "Residents Selected for In-depth Review", Form HCFA-520.

Transcribe notes of a negative nature onto the SRF in the "Remarks" column under the appropriate rule. Findings from a later segment in the survey or gathered by another surveyor may combine to substantiate a deficiency. You need not check "met" or "not met" at this point in the survey. Discuss significant impressions/conclusions at the completion of each subsequent survey task, and transfer any negative findings onto the Survey Report Form in the Remarks section.

(f) *Task 4—Observation/Interview/Medical Record Review (including drug regimen review).* Perform the in-depth review of each individual in the resident sample in order to ascertain whether the facility is meeting resident needs. Evaluate specific indicators for each resident, utilizing the front and back of the "Observation/Interview/Record Review (OIRR)" worksheet, Form HCFA-524. You may prefer to perform the record review first, complete resident/staff/family observations and interviews, and finally, return to the record for any final unresolved issues. On the other hand, you may prefer to do the interviews first. Either method is acceptable. Whenever possible, however, complete one resident's

observation/interview/medical record review and document the OIRR before moving onto another resident. If because of the facility layout, it is more efficient to do more than one record review at a time, limit such record review to two or three residents so your familiarity with the particular resident and continuity of the OIRR are not compromised.

(1) *Observation.* Conduct observations concurrently with interviews of residents, family/significant others, and discussions with direct care staff [of the various disciplines involved. In multi-facility operations, whenever possible, observe staff that is regularly assigned to the facility in order to gain an understanding of the care and services usually provided.] Maintain respect for resident privacy. Minimize disruption of the operations of the facility or impositions upon any resident as much as possible. Based upon your observations of the residents' needs, gather information about any of the following areas, as appropriate:

- Bowel and bladder training
- Catheter care
- Restraints
- Injections
- Parenteral fluids
- Tube feeding/gastrostomy
- Colostomy/ileostomy
- Respiratory therapy
- Tracheostomy care
- Suctioning

(2) *Interviews.* Interview each resident in private unless he/she independently requests that a facility staff member or other individual be present. Conduct the in-depth interview in a nonthreatening and noninvasive fashion so as to decrease anxiety and defensiveness. The open-ended approach described in the section on the Resident Council is also appropriate for the in-depth interview. While prolonged time expenditure is not usually a worthwhile use of resources or the resident's time, do allow time initially to establish rapport.

At each interview:

- Introduce yourself.
- Address the resident by name.
- Explain in simple terms the reason for your visit (e.g., to assure that the care and services are adequate and appropriate for each resident).
- Briefly outline the process—entrance conference, tour, interviews, observations, review of medical records, resident interviews, and exit conference.
- Mention that the selection of a particular resident for an interview is not meant to imply that his/her care is substandard or that the facility provides substandard care. Also mention that

most of those interviewed are selected randomly.

- Assure that you will strive for anonymity for the resident and that the interview is used in addition to medical records, observations, discussions, etc., to capture an accurate picture of the treatment and care provided by the facility. Explain that the official findings of the survey are usually available to the public about three months after completion of the survey, but resident names are not given to the public.

- When residents experience difficulty expressing themselves:

- Avoid pressuring residents to verbalize
- Accept and respond to all communication
- Ignore mistakes in word choice
- Allow time for recollection of words
- Encourage self-expression through any means available

- When interviewing residents with decreased receptive capacity:

- Speak slowly and distinctly
- Speak at conversational voice level
- Sit within the resident's line of vision
- Listen to all resident information/allegations without judgment. Information gathered subsequently may substantiate or repudiate an allegation.

The length of the interview varies, depending on the condition and wishes of the resident and the amount of information supplied. Expect the average interview, however, to last approximately 15 minutes. Courteously terminate an interview whenever the resident is unable or unwilling to continue, or is too confused or disoriented to continue. Do, however, perform the other activities of this task (observation and record review). If, in spite of your conversing during the tour, you find that less than 40 percent of the residents in your sample are sufficiently alert and willing to be interviewed, try to select replacements so that a complete OIRR is performed for a group this size, if possible. There may be situations, however, where the resident population has a high percentage of confused individuals and this percentage is not achievable. Expect that the information from confused individuals can be, but is not necessarily, less reliable than that from more alert individuals.

Include the following areas in the interview of each resident in the sample:

- Activities of daily living
- Grooming/hygiene
- Nutrition/dietary
- Restorative/rehabilitation care and services

Activities Social services Resident rights

Refer to the Care Guidelines "evaluation factors" as a resource for possible elements to consider when focusing on particular aspects of care and resident needs.

Document information obtained from the interviews/observations on the OIRR Worksheet. Record in the "Notes" section any additional information you may need in connection with substandard care or services. Unless the resident specifically requests that he/she be identified, do not reveal the source of the information gleaned from the interview.

(3) *Medical Record Review.* The medical record review is a three-part process, which involves first reconciling the observation/interview findings with the record, then reconciling the record against itself, and lastly performing the drug regimen review.

Document your findings on the OIRR Worksheet, as appropriate, and summarize on the Survey Report Form the findings that are indicative of problematic or substandard care. Be alert for repeated similar instances of substandard care developing as the number of completed OIRR Worksheets increases.

Note: The problems related to a particular standard or condition could range from identical (e.g., meals not in accordance with dietary plan) to different but related (e.g., nursing services—lapse in care provided to residents with catheters, to residents with contractures, to residents needing assistance for personal hygiene and residents with improperly applied restraints).

(i) Reconciling the observation/ interview findings with the record.

Determine if:

- An assessment has been performed.
- A plan with goals has been developed.
- The interventions have been carried out.
- The resident has been evaluated to determine the effectiveness of the interventions.

For example, if a resident has developed a decubitus ulcer while in the facility, record review can validate staff and resident interviews regarding the facility's attempts at prevention. Use your own judgment; review as much of the record(s) as necessary to evaluate the care planning. Note that facilities need not establish specific areas in the record stating "Assessment," "Plan," "Intervention," or "Evaluation" in order for the documentation to be considered adequate.

(ii) Reconciling the record with itself.

Determine:

- If the resident has been properly assessed for all his/her needs.
- That normal and routine nursing practices such as periodic weights, temperatures, blood pressures, etc., are performed as required by the resident's conditions.

(iii) *Performing the drug regimen review.* The purpose of the drug regimen review is to determine if the pharmacist has reviewed the drug regimen on a monthly basis. Follow the procedures in Part One of Appendix N, Surveyor Procedures for Pharmaceutical Service Requirements in Long-Term Care Facilities. Fill in the appropriate boxes on the top left hand corner of the reverse side of the OIRR Worksheet, Form HCFA-524. Appendix N lists many irregularities that can occur. Review at least six different indicators on each survey. However, the same six indicators need not be reviewed on every survey.

Note: If you detect irregularities and the documentation demonstrates that the pharmacist has notified the attending physician, do not cite a deficiency. Do, however, bring the irregularity to the attention of the medical director or other facility official, and note the official's name and date of notification on the Survey Report Form.

(g) Task 5—Drug Pass Observation.

The purpose of the drug pass observation is to observe the actual preparation and administration of medications to residents. With this approach, there is no doubt that the errors detected, if any, are errors in drug administration, not documentation. Follow the procedure in Part Two of Appendix N, Surveyor Procedures for Pharmaceutical Service Requirements in Long-Term Care Facilities, and complete the Drug Pass Worksheet, Form HCFA-522. Be as neutral and unobtrusive as possible during the drug pass observation. Whenever possible, select one surveyor, who is a Registered Nurse or a pharmacist, to observe the drug pass of approximately 20 residents. In facilities where fewer than 20 residents are receiving medications, review as many residents receiving medications as possible. Residents selected for the in-depth review need not be included in the group chosen for the drug pass; however, their whole or partial inclusion is acceptable. In order to get a balanced view of a facility's practices, observe more than one person administering a drug pass, if feasible. This might involve observing the morning pass one day in Wing A, for example, and the morning pass the next day in Wing B.

Transfer findings noted on the "Drug Pass" worksheet to the SRF under the appropriate rule. If your team concludes that the facility's medication error rate is 5 percent or more, cite the deficiency under Nursing Services/Administration of Drugs. Report the error rate under F209. If the deficiency is at the standard level, cite it in Nursing Services, rather than Pharmacy.

(h) *Task 6—Dining Area and Eating Assistance Observation.* The purpose of this task is to ascertain the extent to which the facility meets dietary needs, particularly for those who require eating assistance. This task also yields information about staff interaction with residents, promptness and appropriateness of assistance, adaptive equipment usage and availability, as well as appropriateness of dress and hygiene for meals.

For this task, use the worksheet entitled "Dining Area and Eating Assistance Observation" [Form HCFA-523]. Observe two meals; for a balanced view, try to observe meals at different times of the day. For example, try to observe a breakfast and a dinner rather than two breakfasts. Give particular care to performing observations as unobtrusively as possible. Chatting with residents and sitting down nearby may help alleviate resident anxiety over the observation process.

Select a minimum of five residents for each meal observation and include residents who have their meals in their rooms. Residents selected for the in-depth review need not be included in the dining and eating assistance observation; however, their whole or partial inclusion is acceptable. Ascertain the extent to which the facility assesses, plans, and evaluates the nutritional care of residents and eating assistance needs by reviewing the sample of 10 or more residents. If you are unable to determine whether the facility meets the standards from the sample reviewed, expand the sample and focus on the specific area(s) in question, until you can formulate a conclusion about the extent of compliance. As with the other survey tasks, transfer the findings noted on the "Dining & Eating Assistance Observation" worksheet to the Survey Report Form.

(i) *Task 7—Forming the Deficiency Statement.* (1) *General.* The Survey Report Form contains information about all of the negative findings of the survey. Be sure to transfer to the Survey Report Form data from the tour, drug pass observation, dining area and eating assistance observation, as well as in-depth review of the sample of residents.

Transfer only those findings which could possibly contribute to a determination that the facility is deficient in a certain area.

Meet as a group in a pre-exit conference to discuss the findings and make conclusions about the deficiencies, subject to information provided by facility officials that may further explain the situation. Review the summaries/conclusions from each task and decide whether any further information and/or documentation is necessary to substantiate a deficiency. As the facility for additional information for clarification about particular findings, if necessary. Always consider information provided by the facility. If the facility considers as acceptable, practices which you believe are not acceptable, ask the facility to backup its contention with suitable reference material or sources and submit them for your consideration.

(2) *Analysis.* Analyze the findings on the Survey Report Form for the degree of severity, frequency of occurrence and impact on delivery of care or quality of life. The threshold at which the frequency of occurrences amounts to a deficiency varies from situation to situation. One occurrence directly related to a life-threatening or fatal outcome can be cited as a deficiency. On the other hand, a few sporadic occurrences may have so slight an impact on delivery of care or quality of life that they do not warrant a deficiency citation. Review carefully all the information gathered. What may appear during observation as a pattern, may or may not be corroborated by records, staff, and residents. For example, six of the 32 residents in the sample are dressed in mismatched, poorly buttoned clothes. A few of the six are wearing slippers without socks. A few others are wearing worn clothes. Six occurrences might well be indicative of a pattern of substandard care. Close scrutiny of records, discussions with staff, and interviews reveal, however, that the six residents are participating in dressing retraining programs. Those residents who are without socks, chose to do so. The worn clothing items were also chosen—they are favorites.

Combinations of substandard care such as poor grooming of a number of residents, lack of ambulation of a number of residents, lack of attention to positioning, poor skin care, etc., can yield a deficiency in nursing services just as 10 out of 10 residents receiving substandard care for decubiti yields a deficiency.

(3) *Deficiencies Alleged by Staff or Residents.* If staff or residents allege deficiencies, but records, interviews,

and observation fail to confirm the situation, it is unlikely that a deficiency exists. Care and services that are indeed confirmed by the survey to be in compliance with the regulatory requirements, but considered deficient by residents or staff, cannot be cited as deficient for certification purposes. On the other hand, if an allegation is of a very serious nature (e.g., resident abuse) and the tools of record review and observation are not effective because the problem is concealed, obtain as much information as possible or necessary to ascertain compliance, and cite accordingly. Residents, family, or former employees may be helpful for information gathering.

(4) *Composing the Deficiency Statement.* Write the deficiency statement in terms specific enough to allow a reasonably knowledgeable person to understand the aspect(s) of the requirement(s) that is (are) not met. Do not delve into the facility's policies and procedures to determine or speculate on the root cause of a deficiency, or sift through various alternatives in an effort to prescribe an acceptable remedy. Indicate the data prefix tag and regulatory citation, followed by a summary of the deficiency and supporting findings using resident identifiers, not resident names, as in the following example.

F102 SNF 405.1123(b).—Each resident has not had a physician's visit at least once every 30 days for the first 90 days after admission. Resident #1602 has not been seen by a physician since she was admitted 50 days ago. Her condition has deteriorated since that time (formulation of decubiti, infections).

When the data prefix tag does not repeat the regulations, also include a short phrase that describes the prefix tag (e.g., F117 decubitus ulcer care). List the data tags in numerical order, whenever possible.

(j) *Task 8—Exit Conference.* The purpose of the exit conference is to inform the facility of survey findings and to arrange for a plan of correction, if needed. Keep the tone of the exit conference consistent with the character of the survey process—inspection and enforcement. Tactful, business-like, professional presentation of the findings is of paramount importance. Recognize that the facility may wish to respond to various findings. Although deficiency statements continue to depend, in part, on surveyor professional judgment, support your conclusions with resident-specific examples (identifiers other than names) whenever you can do so without compromising confidentiality. Before formally citing deficiencies, discuss any allegations or findings that could not be

substantiated during earlier tasks in the process. For example, if information is gathered that suggests a newly hired R.N. is not currently licensed, ask the facility officials to present current licensure information for the nurse in question. Identify residents when the substandard care is readily observed or discerned through record review. Ensure that the facility improves the care provided to all affected residents, not only the identified residents. Make clear to the facility that during a follow-up visit the surveyors may review residents other than those with significant problems from the original sample, in order to see that the facility has corrected the problems overall. Do not disclose the source of information provided during interviews, unless the resident has specifically requested you to inform the facility of his/her comments or complaints. In accordance with your Agency's policy, present the Statement of Deficiencies, form HCFA-2567, on site or after supervisory review, no later than 10 calendar days following the survey.

(k) *Plan of Correction.* Explain to the facility that your role is to identify care and services which are not consistent with the regulatory requirements, rather than to ascertain the root causes of deficiencies. Each facility is expected to review its own care delivery. Subsequent to the exit conference, each facility is required to submit a plan of correction that identifies necessary changes in operation that will assure correction of the cited deficiencies. In reviewing and accepting a proposed plan of correction, apply these criteria:

- Does the facility have a reasonable approach for correcting the deficiencies?
- Is there a high probability that the planned action will result in compliance?
- Is compliance expected timely?

Plans of correction specific to residents identified on the deficiency statement are acceptable only where the deficiency is determined to be unique to that resident and not indicative of a possible systemic problem. For example, as a result of an aide being absent, two residents are not ambulated three times that day as called for in their care plans. A plan of correction that says "Ambulate John Jones and Mary Smith three times per day," is not acceptable. An acceptable plan of correction would explain changes made to the facility's staffing and scheduling in order to guarantee that staff is available to provide all necessary services for all residents.

Acceptance of the plan of correction does not absolve the facility of the responsibility for compliance should the implementation not result in correction and compliance. Acceptance indicates the State agency's acknowledgement that the facility indicated a willingness and ability to make corrections adequately and timely.

Allow the facility up to 10 days to prepare and submit the plan of correction to the State agency, however, follow your SA policy if the timeframe is shorter. Retain the various survey worksheets as well as the Survey Report Form at the State agency. Forward the deficiency statement to the HCFA regional office.

(l) *Follow-up Surveys.* The purpose of the follow-up survey is to re-evaluate the specific types of care or care delivery patterns that were cited as deficient during the original survey. Ascertain the corrective status of all deficiencies cited on the HCFA-2567. Because this survey process focuses on the actual provision of care and services, revisits are almost always necessary to ascertain whether the deficiencies have indeed been corrected. The nature of the deficiencies dictates the scope of the follow-up visit. Use as many tasks or portions of the Survey Report Form(s) as needed to ascertain compliance status. For example, you need not perform another drug pass if no drug related deficiencies were cited on the initial survey. Similarly, you need not repeat the dining area and eating assistance observations if no related problems were identified. All or some of the aspects of the observation/interview/medical record review, however, are likely to be appropriate for the follow-up survey. When selecting the resident sample for the follow-up, determine the sample size using the same formula as used earlier in the survey, with the following exceptions:

- The maximum sample size is 30 residents, rather than 50.
- The minimum sample size of 10 residents does not apply if only one care category was cited as deficient and the total number of residents in the facility in that category was less than 10 (e.g., deficiency cited under catheter care and only five residents have catheters).

Include in the sample those residents who, in your judgment, are appropriate for reviewing vis-a-vis the cited substandard care. If possible, include some residents identified as receiving substandard care during the initial survey. If after completing the follow-up activities you determine that the cited deficiencies were not corrected, initiate

adverse action procedures, as appropriate.

(m) *Role of Surveyor.* The survey and certification process is intended to determine whether providers and suppliers meet program participation requirements. The primary role of the surveyor, then, is to assess the quality of care and services and to relate those findings to statutory and regulatory requirements for program participation.

When you find substandard care or services in the course of a survey, carefully document your findings. Explain the deficiency in sufficient detail so that the facility officials understand your rationale. If the cause of the deficiency is obvious, share the information with the provider. For example, if you cite a deficiency for restraints (F118), indicate that restraints were applied backwards on residents 1621, 1634, 1646, etc.

In those instances where the cause is not obvious, do not delve into the facility's policies and procedures to determine the root cause of any deficiency. Do not recommend or prescribe an acceptable remedy. The provider is responsible for deciding on and implementing the action(s) necessary for achieving compliance. For the restraint situation in the example above, you would not ascertain whether the improper application was due to improper training or lack of training, nor would you attempt to identify the staff member who applied the restraints. It is the provider's responsibility to make the necessary changes or corrections to ensure that the restraints are applied properly.

A secondary role for the surveyor is to provide general consultation to the provider/consumer community. This includes meeting with provider/consumer associations and other groups as well as participating in seminars. It also includes informational activities, whereby you respond to oral or written inquiries about required outcomes in care and services.

(n) *Confidentiality and Respect for Resident Privacy.* Conduct the survey in a manner that allows for the greatest degree of confidentiality for residents, particularly regarding the information gathered during the in-depth interviews. When recording observations about care and resident conditions, protect the privacy of all residents. Use a code such as resident identifier number rather than names on worksheets whenever possible. Never use a resident's name on the Deficiency Statement, Form HCFA-2567. Block out resident names, if any, from any document that is disclosed to the facility, individual or organization.

When communicating to the facility about substandard care, fully identify the resident(s) by name if the situation was identified through observation or record review. Improperly applied restraints, expired medication, cold food, gloves not worn for a sterile procedure, and diet inconsistent with order, are examples of problems which can be identified to the facility by resident name. Information about injuries due to broken equipment, prolonged use of restraints, and opened mail is less likely to be obtained through observation or record review. Do not reveal the source of information unless actually observed, discovered in the record review, or requested by the resident or family.

(o) *Team Composition.* Whenever possible, use the following survey team model:

SNF/ICF Survey Team Model

In facilities with 200 beds or less, the team size may range from 2 to 4 members. If the team size is:

- *2 members:* The team has at least one RN plus another RN or a dietitian or a pharmacist.
- *3-4 member:* In addition to the composition described above, the team has one or two members of any discipline such as a social worker, sanitarian, etc.

If the facility has over 200 beds and the survey will last more than 2 days, the team size may be greater than 4 members. Select additional disciplines as appropriate to the facility's compliance history.

Average onsite time per survey: 60 person hours (Number of surveyors multiplied by the number of hours on site)

Preferably, team members have gerontological training and experience. Any member may serve as the team leader, consistent with State agency procedures. In followup surveys, select disciplines based on major areas of correction. Include a social worker, for example, if the survey revealed major psychosocial problems. This model does not consider integrated survey and inspection of care review teams, which typically would be larger.

(p) *Type of Facility—Application of SNF or ICF Regulations.* Apply the regulations to the various types of facilities in the following manner:

- | | |
|---|------------------------|
| • Freestanding Skilled Nursing Facility (SNF) | Apply SNF regulations. |
| • Freestanding Intermediate Care Facility (ICF) | Apply ICF regulations. |

- SNF Distinct Part of a Hospital Apply SNF regulations.
- ICF Distinct Part of a Hospital Apply ICF regulations.
- Dually Certified SNF/ICF Apply SNF regulations and 442.346(b).
- Freestanding SNF with ICF Distinct Part Apply SNF regulations for SNF unit. Apply ICF regulations for ICF distinct part. Apply both SNF and ICF regulations for shared services (e.g., dietary).
 - If the same deficiency occurs in both the SNF and ICF components of the facility, cite both SNF and ICF regulations.
 - If the deficiency occurs in the SNF part only, cite only the SNF regulation.
 - If the deficiency occurs in the ICF part only, cite only the ICF regulation.

(q) *Use of Part A and Part B of the Survey Report.* (1) *Use of Part A (HCFA-525).*—Use Part A for initial certification surveys only, except under the following circumstances:

- When a terminated facility requests program participation 60 days or more after termination. Treat this situation as a request for initial certification and complete Part A of the survey report in addition to Part B.

- If an ICF with a favorable compliance history requests to convert a number of beds to SNF level, complete both Part A and Part B for compliance with the SNF requirements. If distinct part status is at issue, also examine whether it meets the criteria for certification as a distinct part.

(i) *Addendum for Outpatient Physical Therapy (OPT) or Speech Pathology Services.* Use the Outpatient Physical Therapy—Speech Pathology SRF (HCFA-1893) as an addendum to Part A.

(ii) *Resurvey of Participating Facilities.* Do not use Part A for resurveys of participating SNFs and ICFs. A determination of compliance, based on documented examination of the written policies and procedures and other pertinent documents during the initial survey, establishes the facility's compliance status with Part A requirements. This does not preclude citing deficiencies if they pertain to administrative or structural requirements from Part A that are uncovered incidental to a Part B survey. As an assurance measure, however, each facility at the time of recertification must complete an affidavit (on the HCFA-1516) attesting that no substantive changes have occurred that would affect compliance. Each facility must also agree to notify the State agency immediately of any upcoming changes in its organization or management which may affect its compliance status. If a new administrator is unable to complete the affidavit, proceed with the survey using the Part B form and worksheets; do not use the Part A form. The survey cannot be considered complete, however, until the affidavit is signed. If the facility fails to complete the affidavit, it cannot participate in the program.

(iii) *Substantial Changes in a Facility's Organization and Management.* If you receive such information, review the changes to

ensure compliance with the regulations. Request copies of the appropriate documents (e.g., written policies and procedures, personnel qualifications, or agreements) if they were not submitted. If the changes have made continued compliance seem doubtful, determine through a Part B survey whether deficiencies have resulted. Cite any deficiencies on the HCFA-2567 and follow the usual procedures.

(2) *Use of Part B (HCFA-519).* Use Part B and the worksheets for all types of SNF and ICF surveys—initials, recertifications, followup, complaints, etc.

The worksheets are:

- HCFA-520—Residents Selected for In-depth Review
- HCFA-521—Tour Notes Worksheet
- HCFA-522—Drug Pass Worksheet
- HCFA-523—Dining Area and Eating Assistance Worksheet
- HCFA-5245—Observation/Interview/Record Review Worksheet

For complaint investigations, perform a full or partial Part B survey based on the extent of the allegations. If the complaint alleges substandard care in a general fashion or in a variety of services and care areas, perform several tasks or a full Part B survey, as needed. If the complaint is of a more specific nature, such as an allegation of improper medications, perform an appropriate partial Part B survey, such as a drug pass review and a review of selected medical records.

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§ 488.115 Care guidelines.

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Resident Rights					
F53 SNF 405.1121(k)(1) ICF 442.311(a)		Ask Resident: - Did you receive a copy of the Resident's Bill of Rights? Was it explained to you?	Looked for signed acknowledgement of receipt of resident rights information. Residents unable to sign name may have their "mark" witnessed.	Because of the confusion surrounding admission to a new facility and the large amount of information given to a resident or resident's family on admission, information given at this time is often forgotten. Therefore, surveyor should verify resident's recollection with staff interviews and record checks. Written information on services and costs must be given to the resident, as well as copies of residents' rights and responsibilities. Copies of residents' rights should also be available to patients and visitors, e.g., in resident lounges, lobbies, or other area where residents and visitors could easily see and read them.	Notification of Change in Status 405.1121(j) 442.307
F54 SNF 405.1121(h)(1) ICF 442.311(a)(1)			Look for written statement of charges services.		Patient Care Policies 405.1121(e) 442.308 442.309 442.310 442.305
A. Information*	Where is information concerning resident rights and responsibilities available in the facility?	- Were you told of any responsibilities you have in living here?	Social Work records may indicate patient rights information discussed with resident.		Medical Direction 405.1122(a) Medical Records 405.1132(b)(d) 442.310
F56 SNF 405.1121(k)(1) ICF 442.311(a)(3)		- Were you given a chance to ask questions?			
F57 SNF 405.1121(h)(2) ICF 442.311(a)(4)		- Did he/she receive a written copy of services provided by the facility and any additional costs for these services?			
3. Resident Acknowledgement					

INTENT

To assure that the resident maintains, in so far as possible, those personal rights that are a part of normal, adult life, and including the right to personal dignity.

*Information concerning incompetent residents is given in L. Delegation of Rights and Responsibilities.

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F58 SNF 405.1121(k)(2) ICF 442.311(a)(4) 4. Resident informed in writing of changes in services and charges for services. F59 SNF 405.1121(k)(2) ICF 442.311(a)(4) 5. Information to resident of services not covered by Medicare or Medicaid and not covered in the basic rate.		Ask Resident: - If there are changes in services or costs does someone explain these? Ask Administrative Staff: - How do residents learn what is expected of them? - How do they learn about any changes in the facility's procedures and/or costs?			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
B. Medical Condition & Treatment F60-64 SNF 405.1121(k)(2) ICF 442.311(b)		Ask Resident: - Has your doctor discussed your health with you, how is it, what's wrong, and what you can expect in the future? - Have you had the opportunity to help plan what you need and how you are taken care of? - Do you know that you can refuse treatment or medication? - Have you ever refused medication or treatment? - What happened when you did? Ask Staff: - Is the facility participating in any experimental research? - If yes, ask what residents are involved. - Interview a sample of these residents. Ask Resident (or Guardian): - Are you participating in the _____ study? - Was this explained to you well enough so that you understand what the study is about and any risks that may be involved?	If the resident has not been informed of his/her medical condition, physician notes should document that the resident was not informed because it was medically contraindicated. Do care plans or other documentation reflect resident participation in care planning? If resident states he/she has refused treatment or medication does documentation indicate adherence to/violation of resident rights. Review records of residents identified as participating in a clinical research study. Are informed consent forms signed? Do these signed forms list all known risks for the resident? All needed informed consent statements are present and properly signed.	Unless there is documentation that the resident's medical condition should not be discussed with him/her resident interviews/record reviews should indicate that the resident and physician have discussed his/her medical condition. If you cannot confirm that this has occurred, interview staff to get further clarification. Almost all residents who are able to participate to some extent in their care planning do so. You should find evidence of this for the majority of the residents (e.g., care planning interview, nurses notes, social worker progress notes). Residents do have the right to refuse medication or other treatment, but you would expect that the facility would discuss the implications of this refusal with the resident and possibly do some "gentle persuasion".	Patient Care Management 405.1124(d) 442.319 442.341

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F60-64 (cont'd)				However, except in an emergency situation force should never be used to compel a resident to accept medication or treatment. Deceit is also a violation of resident rights, except in the case of therapeutically indicated placebos ordered by the physician. Any resident participating in research studies should fully understand the implication of the study. The facility is not in compliance with the resident rights regulation if the resident consents to participate in a clinical study without full knowledge of the study. (Record review only as other nonclinical studies may not require informed consent).	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
C. Transfer and Discharge F65-68 SNF 405.1121(k)(4) ICF 442.311(c)	Look for residents that may be inappropriately placed physically - an alert resident rooming with a confused, noisy resident; very ill resident placed far from the nurses station; residents not compatible with each other, (e.g., different life-styles, habits, etc.).	<u>Ask Resident:</u> - How well do you get along with your roommate? - Have you ever been moved from one room to another? If yes, why? - How were you involved in the decision to move? - How much time was there between the time they told you you were to be moved, and when you were moved? - Have you asked for your room to be changed? <u>Ask Direct Care and Other Staff:</u> - What are some of the reasons residents rooms are changed? - What are some of the reasons for discharge of residents or transfer to a hospital or LTC facility? - How are residents involved in the decision to move? - If a resident requests a room change, how is this handled? - When a resident requests a room change are the following areas of consideration presented and discussed:	Nursing, physician, and/or social service progress notes should indicate reason for transfer and discussion with resident and/or family/guardian. If staff interviews give you cause to feel that transfers and discharges may be in violation of these regulations, review a sample of closed records for transfer information on how it was handled. If residents are transferred between facilities with common ownership and similar levels of care, transfers must be reviewed to determine reasons for transfer. Efforts to maintain the census is not an acceptable reason for transfer. Do discharge records review: - reason for discharge, medical non-payment or need for different level of care?	To be in compliance with transfer and discharge regulations the facility must be able to confirm that all discharges/transfers were for medical or resident welfare reasons, or non-payment. Welfare reasons include physical, emotional, social issues. Transfers and discharges made solely for the convenience of the facility are unacceptable. (Relocation to accommodate contagious or other disorders requiring isolation procedures are not for the convenience of the facility).	Status Change Notification 405.1121(j) Medical Records 405.1132(c)(e) 442.318(c)(4) Transfer Agreement 405.1133(a)(2) 442.307(b)(1)(2)

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F65-68 (cont'd)		+ cost factors + resident welfare + resident's reason for requesting the move + facility's assessment of whether the move would be beneficial or not for the resident.			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
D. Exercising Rights F69 SNF 405.1121(k)(5) ICF 442.311(d)	Do residents appear comfortable when speaking to the surveyors as opposed to being afraid that someone may see them or overhear their conversation?	<u>Ask Resident:</u> - Do you belong to, or have representation on the resident council? - Are you informed of changes in the facility that will affect you? - Are you given a chance to express views on these changes prior to their implementation? - Does the facility assist in arranging for you to vote either at the polls or via absentee ballot? - Are you assisted in obtaining legal or Social Services if needed? - Do you feel comfortable in expressing yourself freely or are you concerned about retaliation? - Is staff/administration responsive to complaints? Do you know who to complain to? <u>Ask Staff:</u> - What arrangements are made for residents to vote? - How do you handle it if someone needs a lawyer or other service that you don't provide?	Review resident council documentation, as available, to determine level of activity. Review social work or progress notes for legal referrals. Is there documentation in progress notes or elsewhere, of resident complaints and disposition of complaints?	Compliance determinations will be made based primarily on resident/staff interviews and the correlation of interview information with documentation in the Medical record. If residents ask, they should be allowed to speak to the surveyor without facility personnel being present. However the resident has the right to have a third party of their choosing present during an interview.	Social Services 405.1130 442.344

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
E. Financial Affairs F72-78 SNF 405.1121(k)(6) 405.1121(m) ICF 442.311(e) 442.320		Ask Residents: - Are you able to take care of your own financial affairs? - Does the facility keep some money for you that you can have when you request it? - When you ask for this money, how quickly do you get it? - Do you know the amount of money you have available at this time? - If the facility pays bills for you do they periodically provide an itemized listing of the transactions they have made? - When did you receive the last itemized statement? - Are you comfortable that your funds are taken care of correctly? - If you deposit money or valuables with the facility, do you receive a receipt for this deposit? - Are you or your family able to review your financial records when you request to do so? - Have you ever had money or anything else stolen? If so, what was done about it?	A copy of the statement should be in the residents financial record and given to the resident at least quarterly. Receipts, account logs showing deposits/withdrawals, authorization/reasons for withdrawals, and interest earned should be reviewed. If resident indicates there may be a problem, an in-depth interview should be conducted. Resident records indicate separate financial records from facility records.	Residents should have reasonable access to their funds (may not be available at 2 A.M.) and should have at least a quarterly accounting of their funds. If questions arise they should be resolved. Personal possessions and funds received from the residents should be protected from theft and other loss. If losses do occur there should be: 1. a procedure which is implemented to investigate the loss, and 2. a plan to prevent recurrence. Resident funds must not be appropriated for facility furnishings, linen direct care supplies, etc	Social Services 405.1130(a)

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F72-78 (cont'd)		- Does the home provide safe-keeping for valuables? - Have they ever lost anything of yours? Ask Staff: - What is the procedure when residents lose personal belongings? - Valuables? - How are resident personal funds handled? - What is your procedure when a resident asks to get an accounting of their funds? * The special needs of residents with Alzheimer's disease who "lose" personal possessions should be noted. Individuals in stages 2 and 3 of Alzheimer's disease sometimes believe their personal possessions were stolen.			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F. Freedom From Abuse and Restraints F79-83 SHF 405.1121(k)(7) ICF 442.311(f)	- How many residents are physically restrained? - What type or restraints are used? - Are they applied correctly? - What is the apparent physical/mental condition of those residents restrained? - Do you observe the release of restraints every 2 hours and the provision of at least 10 minutes exercise for the resident? - Do staff respond to request for water, assistance to bathroom, etc., from a resident who is restrained? What is the interval between request and response?	Ask Resident: - Why are you wearing this? - How often is this worn? - Do you know what would happen if it were removed? - How often is it removed? - What is done for you when the restraint is removed? - For nonrestrained resident-- + Have you ever been restrained? + For what reason? + What explanation was given for the restraint? - Do you ever feel that you receive medication when you don't need it?	Look for a physician's order for the restraint. Review nurses', physicians' progress notes re: reason for restraints and resident reaction to them. Also any alternative methods tried. What time of day are restraints most often applied? Review schedule of releasing restraints. Care plans: - When restraint is to be used. - For how long. - What are plans for alternative measures. - Is the resident periodically re-evaluated? If appropriate are the Social Service or activities departments involved in providing different directions for resident attention?	There must be a physician's order for all restraints, including "safety devices" which are defined in some State laws. Progress notes should show evidence that methods other than restraints were initially used to protect the resident from injury, and that restraints were used only when other methods were not adequate. If used in an "emergency" the reason for use must be documented and show that: - Its use was necessary to protect the resident from injury. - Its use was necessary to protect others from injury. The resident must be observed by a staff member at least every 30 mins. while restrained. The restraints must be released and the resident exercised, toileted, etc. at least every 2 hours.	Nursing Services 405.1124(c)(5) Rehab Nursing 405.1124(e) Patient Care Management 405.1124(d)

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F79-83 (cont'd)	- How often are restrained residents observed by staff? - Observe effect on residents. Do you see what may be signs of over-medication? - How often is this observed? - Residents should be free from mental and physical abuse. - Observe interaction of staff and residents for any sign of harassment, humiliation or threats. - Do residents appear comfortable with staff? - Look for numbers of residents with bruises or other injuries (skin of the elderly bruises easily, so do not automatically assume abuse or injury). - Observe resident to resident interactions and staff response to any physical or mental abuse of one resident to another.	Ask Staff: - What is the facility policy regarding restraints? - What is considered an "emergency" need for restraints? - What is the most common reason for use of restraints? - Do you try any alternative measures before using restraints? - What information do you give the physician to help him make the decision to order restraints? - What do you routinely do for the resident when you periodically release the restraints? - Does use of restraints increase on evenings or nights when there are fewer staff members? - Have you had any accidents or incidents in the last year while residents were restrained? - How do you define the difference between a "safety device" and a "restraint"? - How do your policies differ in regard to "safety devices" and restraints?	Who authorizes the use of restraints in an emergency? Do progress notes indicate that a professional staff member authorized the use of "emergency" restraints? There should be documentation that the use of "emergency" restraint has been promptly reported to the residents physician. Review incident and accident reports to identify any problematic trends. Does the drug regimen review indicate appropriate use of psychoactive drugs? Are there resident complaints documented? What is the resolution of these complaints?	The restraint must be applied correctly. If the use of restraints increased during evening and night hours review progress notes, nurses notes and staffing to make a determination as to whether the restraints are justified or if they are for staff convenience. Care plans should plan not only for care while the resident is restrained but should show effort to find alternative treatments to restraints, or there should be documentation in the medical record that no alternative is appropriate. An appropriate drug regimen reviews should be conducted on the resident. Your observations should show interaction between residents and staff to be, except in unusual situations, free from tension and hostility. Staff should step into situation where one resident may be abusing another.	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F79-83 (cont'd)	- Observe for evidence of resident neglect, residents left in urine/feces without cleaning.	Ask Resident: - Do you feel safe in the facility? - Do you ever feel intimidated, harassed, or otherwise abused? - How are confused residents treated? - Is anyone ever hit or treated roughly? - Do you feel as if you are treated with respect/dignity? - Is the staff/administration responsive to complaints? - Do you know who to complain to?		Resident should feel free to voice complaints. If no complaints are noted in records or on record review, why not? Residents should seem comfortable in relating how they are treated?	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
G. Privacy F84-89 SNF 405.1121(k)(8) (9)(14) ICF 442.311(g)	- Observe interactions between staff and residents for indications of respect, consideration, dignity and individuality. - How do staff members enter a residents room or go behind a privacy curtain? - Are privacy curtains used or doors shut when personal care needs and/or treatments are rendered? - Are there areas for residents to be alone or meet in private with visitors?	Ask Resident: - Do you feel that you are treated as a worthwhile, adult individual? - - When you are being cared for, are you comfortable? - What is the degree of privacy and respect you receive? - Do you feel comfortable that if the door to your room is closed staff will knock or otherwise make their presence known before entry? - Do you have a private place to make telephone calls? - - Can you see your record if/when you ask? - Has any information about your condition been given to someone outside of the facility without your permission?	Review progress notes for indications that staff see resident as an individual - i.e., resident eats breakfast in bed because he/she enjoys it. Signed consent for release of information. Do maintenance of and content of medical records indicate that confidentiality is practiced?	Observations and interviews will give you information to determine if residents are respected and treated as individuals. Is privacy available-- e.g., access to a private place to meet or make phone calls, ability to shut door when having visitors, etc. Medical records should not be left where unauthorized personnel can read them and there should be identification codes needed to access computerized records. Married residents should be sharing rooms if they desire to do so unless there are appropriate contradictions.	Medical Records 405.1132(b) 442.318(d)

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F84-89 (cont'd)	- Are medical records kept in their assigned spots not carelessly left for nonauthorized persons to view? - Are married residents sharing rooms? - Observe for negative attitudes toward aging, infantilization and patronizing of residents. - If residents undress in public area, how does staff handle this? - Listen to staff conversation in public places (elevator, lobby). Are resident issues being discussed?	<u>For Married Residents:</u> - When your husband/wife visits can you shut your door and be assured of privacy? - Can you ask that you not be disturbed and have that request respected? <u>Ask Staff:</u> - What is done to assure that each resident maintains his/her dignity and individuality? - How are medical records kept secure? Who has access? - Do you have married couples here? - Do they share rooms? - If not, why? - What arrangements do you make for spouses or significant others to visit? - Do you allow their door to be closed? - Can you adhere to a request that they not be disturbed? - How are residents' medical records and conditions kept confidential?			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
H. Work F90 SNF 405.1121(k)(10) ICF 442.311(h)	- Are residents doing any type of work such as picking up dirty trays, pushing laundry hampers, etc.? - What about clerical work?	Ask Resident: - Are you ever asked to help out in the facility such as pick up dirty trays or stamp mail? - If yes, do you do this? - Do you want to, or do you feel it is expected of you? - Do you feel you can say "no"? Ask Staff: - Are residents asked to help with facility staff if you are shorthanded? - What is their reaction? - What useful work is available for residents who want/need to be usefully "employed"?	If residents are performing services for the facility, is that included in their care plan with specific therapeutic goals defined? If appropriate does the family concur? Are results documented in progress notes? What service (activities, nursing, etc.) is responsible for planning reevaluating and adjusting work activity? Look for physician's orders for approval or disapproval of work activity or restrictions on this activity. Look for evidence that the resident is given opportunities to refuse to do the work. The resident, however, is not restricted from doing the amount and type of work they desire unless it is in conflict with the plan of care.	Services performed by a resident should be part of the resident's plan of care and should be done only if the resident is in full agreement. Service rewards are specifically identified and not obtained using the residents own funds.	405.1124(d) 442.341

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
I. Freedom of Association and Correspondence F91-92 SNF 405.1121(k)(11)(12) ICF 442.311(i)	- Are there areas in the facility—e.g., small lounges, etc., where residents can and do meet privately? - Is mail delivered opened or unopened? - Are facility personnel assisting residents, if needed, in opening and/or reading mail?	Ask Residents: - Can you have visits from anyone? - Can you find a private place to visit? - Do you receive your mail unopened unless you request otherwise? - Are there telephones you have access to? - Does the staff or volunteers assist you in reading or sending mail, if needed? - How timely is your mail delivered? - How do you receive incoming calls? Ask Staff: - Where do residents go when they want privacy? - What telephones are available to residents? - What is the facility visiting policy?	Physician orders and care plans for indications of restrictions on visitors and/or receiving and sending mail.	All residents may have access to and maintain contact with the community and members of that community have access to them. Subject to reasonable scheduling restrictions, residents may receive visits from anyone they wish. A particular visitor may be restricted by the facility for one of the following reasons: - The resident refuses to see the visitor. - The resident's physician documents specific reasons why such a visitor would be harmful to the resident's health. - The visitor's behavior is unreasonably disruptive of the functioning of the facility (reasons are documented and kept on file).	Resident Rights 405.1121(k)(8) 442.311(g)
				Decisions to restrict a visitor are reviewed and reevaluated each time the resident's plan of care and medical orders are reviewed by the physician and nursing staff or at the resident's request.	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F91-92 (cont'd)	Do the available telephones accommodate the physically handicapped (e.g., wheelchair bound, hearing impaired, etc.).			Space is provided for residents to receive visitors in reasonable comfort and privacy. Telephones, consistent with ANSI standards (45.1134(c)), are made available and accessible for residents to make and receive calls with privacy. Residents who need help are assisted in using the phone. The fact that telephone communication is possible, as well as any restrictions, is made known to residents. Arrangements are made to provide assistance to residents who require help in reading or sending mail.	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
J. Activities F93 SNF 405.1121(k)(12) ICF 442.311(j)	- What planned activities are occurring? - What unplanned activities are occurring—individual, 2 or 3 persons or a larger group. - If there is a facility chapel, is it open? - Are activities posted at wheelchair level and kept up to date? - Are residents lined up in front of a I.V. in a common room for hours? - Are activities offered during the evening and on weekends.	Ask Residents: - What do you like to do? - What did you do yesterday? (compare answers) - Is participation in activities optional? - Are you encouraged to participate? - Is pressure exerted on you to attend specific activities? - Which ones? (Surveyors should be aware of special encouragement—"gentle persuasion", which might be important for the depressed or withdrawn resident.) - Are residents notified of community activities? - Are arrangements made for transportation, etc. so that residents can participate? - Can residents go to religious services if they wish? - What opportunities are you given to make choices in your life within the facility? (eg. are all residents "put to bed" at the same time?). Ask Staff: - Are arrangements ever made to take residents to community activities? - Do friends and relatives ever take them to community activities? - Do your residents attend religious service of their choice? - How are residents kept informed/notified of activities?	Care plans or other documentation should indicate resident preferences for both facility and non-facility planned activities. Progress notes of responses to activities.	Compliance with this element is determined by evidence that residents are given the opportunity to participate in available activities they choose unless medically contraindicated. Residents must not be forced to participate against their wishes.	Patient Activities 405.1131(b) 442.345(a)(c)

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
K. Personal Possessions F94 SNF 405.1121(k)(13) ICF 442.311(k)	- Are residents wearing their own clothing or facility nightgowns, robes, etc.? - In resident rooms observe for personal belongings. - Ask residents if you can look in the closet—is personal clothing in there? - Ask residents if belongings such as clothing are identified with name tags or other identifying methods? - Is there enough space to store clothing?	<u>Ask Residents:</u> - What clothing and personal belongings can you have? - Is there a place that you can secure any valuables that you may not want to keep in your room? <u>Ask Staff:</u> - What personal belongings may residents have? - What do you do to secure valuables and other personal property? - What provisions are made for the care of personal clothing?	Admission notes on personal property inventory (e.g., the record should indicate a list of any personal property secured by the facility). The record should indicate how personal clothing will be laundered.	Residents are permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility and such personal property is kept in a safe location which is convenient to the resident. The amount that is reasonable will be dependent on space available in the facility. Patients are advised, prior to or at admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items (e.g., cleaning and laundry). Any personal clothing or possessions retained by the facility for the patient during his stay is identified. The facility is responsible for secure storage of such items, and they are returned to the patient promptly upon request or upon discharge from the facility.	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
L. Delegation of Rights and Responsibilities F95-97 SNF 405.1121(k) ICF 442.312		Ask Administrative Staff: - When do you have relatives make decisions for residents-i.e., how do you decide when the resident isn't capable of making decisions himself? - Have any legal steps been taken? Ask Resident and/or Guardian: - Do you feel that you are given all pertinent information? - What opportunities do you have to make decisions regarding clothing, meals, bathing schedules, etc.? - For guardian: are you notified/informed in a timely manner as appropriate?	Review physician progress notes--incapability must be documented. Is there clear documentation as to whom rights and responsibilities have been assigned? Are pertinent consents/documents signed by appointed guardian?	The fact that a resident has been judged incompetent, is medically incapable of understanding, or exhibits a communication barrier, does not absolve the facility from advising the resident of their rights to the extent the patient is able to understand them. If the resident is incapable of understanding their rights, the facility advises the guardian or sponsor and acquires a statement indicating an understanding of resident's rights. The surveyor reviews records of residents selected for in-depth review who are classified either incompetent, medically incapable of understanding their rights, or have a communication barrier to verify documented evidence (signed acknowledgment) that the guardian or other sponsor has been advised of these resident rights and understand their role in acting on behalf of the resident.	Resident Rights 405.1121(k)(1) 442.311(a)

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
STAFF DEVELOPMENT					
F98 SNF 405.1121		Ask Residents - Does staff know how to take care of you? - What things do they do to help you accommodate your (poor vision, unsteady walking, arthritis, etc.)?	Care plans reflect staff's knowledge of the problems and needs of the residents and special adaptations that are needed. Progress notes indicate that the special needs are considered in implementing planned care.	Facility staff adjusts care to needs/problems of resident. Staff is knowledgeable concerning facility policies and procedures. Staff practices correct techniques, i.e., infection control rehabilitation nursing techniques, etc.	Residents Rights SNF 405.1121(k) ICF 442.311 Infection Control 405.1135(a)(b)(c)(d)(e) 442.327(b) Physical Environment 405.1134(a) 442.315(b)(c) 442.326(a)(c)
F99 ICF 442.314		Ask Staff - What, if any, training have you had here to learn about unique problems and needs of the aged? - What training have you had during the last 12 months? - How have you learned about facility policies and procedures? - Does the facility ask your needs when they develop a training program? - In what areas would you like to have training?		Staff interacts and treats residents in a kind, caring way.	Nursing Services 405.1124(a)(c)(e) 442.338(a)(2) Social Services 405.1130(a)
F100	How do staff relate to residents? Does the facility reflect adaptations for the elderly, i.e., information given in large print, floors covered with materials that allow for ease of movement with walkers, wheel chairs, etc.?				
F101	1. Facility staff are knowledgeable about the problems and needs of the aged, ill, and disabled. 2. Facility staff practices proper techniques in providing care to the aged, ill and diseased.				
F102	3. Facility staff practice proper technique for prevention and control of infection, fire prevention				

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F102 (cont'd) and safety, accident prevention, confidentiality of resident information, and preservation of resident dignity including protection of privacy and personal and property rights. INTENT To assure that facility provides ongoing training to staff so that they will be knowledgeable in current practices, use proper techniques, and interact with residents in a kind, caring way.					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Status Change Notifications F103-104 SNF 405.1121(j) ICF 442.307 F105 1. The facility notifies the resident's attending physician and other responsible persons in the event of an accident involving the resident, or other significant change in the resident's physical, mental, or emotional status, or patient charges, billings, and related administrative matters.	Note residents condition: - Clean - Well groomed - Well adjusted - Casts - Bruises - Decubitus Ulcer - Multiple sites of edema - Aberrant behavior, e.g., abusive, disruptive, not reasonable, etc.	Ask Resident: - Have you been injured since you have been in the facility? - If you are injured or become ill, is your physician called? - Are your relatives notified? - Do you know who is notified if administrative changes such as changes in charges, billings, etc. occur? Ask Staff: - Who do you notify if a resident is injured or has a change in condition? - When would they be notified? Does the facility have a policy regarding how soon a relative or responsible party would be notified? - Do you notify them of actual changes in resident condition and also if resident's condition is getting progressively worse?	- Progress note should document injury/change in condition plus notification of physician and appropriate family member/guardian. - Changes in charges should be documented. Ask facility where this is located. - Review accident and incident reports for indepth sample.	- All injuries and changes in condition must be documented. The resident's physician and family must be notified of significant changes. This should be documented, but this notification should be confirmed by the resident if possible.	Resident Supervision by Physician 405.1123(b)(3) Emergency Services 405.1123(c)

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F106 2. Except in a medical emergency, a resident is not transferred or discharged, nor is treatment altered radically, without consultation with the resident or, if the resident is incompetent, without prior notification of next of kin or sponsor.		Ask Resident: - Have you ever been or do you know if others have been transferred or discharged without discussing it with you first?	- Nursing, physician and social work progress notes should be reviewed for evidence of discussion of transfer/discharge with resident or other designated person.	- Except in an emergency, all transfers or discharges are first discussed with the resident or next of kin as evidenced by documentation in the medical record or confirmed by asking resident.	
INTENT To assure that: - the resident receives proper treatment in the event of an accident or change of condition. - resident and/or next of kin or responsible party is aware in advance of any changes. - resident is not discharged to gain a higher source payment for that bed or facility convenience.					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Physician's Services F107 SNF 405.1123 A. Medical Findings and Orders at Time of Admission F108 SNF 405.1123(a) F109 1. There is made available to the facility prior to or at the time of admission, resident information which includes current medical findings, diagnoses, and orders from a physician for immediate care of the resident. F110 2. Information about the rehabilitation potential of		Ask Staff: - Interview nursing staff to determine if they receive transfer information and admission orders on day of admission. - Ask Administrator and Director of Nursing to explain procedure if a resident arrives without sufficient medical information and/or orders.	Review records of residents selected for indepth review to ascertain that: - There is a referral form from the transferring facility that was received in advance of admission or on date of admission that includes current medical findings, diagnosis and orders from a physician for the immediate care of the residents. - If the medical orders were not obtained from the residents attending physician, there are temporary orders from the emergency care physician. - Information on the rehabilitation potential (prognosis) of the resident and a summary of the course of treatment followed in the transferring facility were transmitted within 48 hours of admission. - The summary of treatment should include discharge summaries from therapies or special services when appropriate. - For residents admitted directly from the	Examine medical records of the residents selected for indepth review to determine if date of orders, medical data and other required information is the date of admission or within 48 hours of admission. The facility should receive sufficient information and orders to provide continuity of care of all residents.	

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F110 (cont'd) the resident and a summary of prior treat- ments are made available to the facility at the time of admission, or within 48 hours thereafter.			community, the attending physician provided cur- rent medical findings, diagnosis, prognosis, and orders. - The order should cover: + Medications and treat- ments + Diet + Therapies (P.T., O.T., Speech) + Activities (bedrest, ambulatory, able to participate with any specific limitations on activity).		

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Resident Supervision by Physician F111 SNF 405.1123(b) F112 ICF 442.346 B. Resident Supervision by Physician F113 1. Every resident must be under the supervision of a physician F114 2. A physician prescribes a planned regimen of care based on a medical evaluation of each resident's immediate and long-term care needs.	Observe resident for any problem/conditions that should be addressed by physician, e.g., edema, loss of appetite, weight loss, etc.	Ask Resident: - How often physician visits. - If physician has discussed plan of care and medical treatment. - If resident feels treatment and/or plan of care meets his/her needs. - What kinds of questions do you ask the physician about your health problems? (Cite examples). Ask Licensed Nursing Staff - How often physician visits and is it often enough to meet resident's need? - Does physician participate in evaluation and reevaluation of resident's plan of care? - Does plan of care meet resident's needs? - Is physician available in an emergency? - Is physician available to discuss residents treatment and care? Ask Administrator - Facility's policy regarding a physician to provide care in the absence of the resident's own physician. - Facility's policy on physician visits.	Review medical records of selected for indepth review for: - A current plan of care that is based upon physician's orders and resident's needs. - Evidence that the plan is reviewed and revised as needed. - Evidence through physician's progress notes, nurses notes, physician's orders, that the physician participates in the resident's overall plan of care. - Evidence that rehabilitation potential is addressed. - Long range plans include an estimate of the length of time for skilled nursing care and a discharge plan. - Physician's orders for medications and treatments on admission and during stay. - A medical evaluation completed within 48 hours of admission unless done within 5 days prior to admission that includes attention to needs such as diet, vision, hearing, speech	Medical records should provide evidence that the residents are under the supervision of a physician by the coordination of physician's orders and progress notes with the resident's plan of care and observations of residents needs. There is evidence that the physician reviews and revises the plan of care as needed. There is evidence that physician services are available to the residents when the residents need such services. An alternate schedule for physician visits may be established if the attending physician determines that the resident need not be seen every 30 days. Justification for the decision is placed in the resident's medical record and is reviewed by the U.R. Committee and State medical review team. Where there is a change in the resident's condition and the physician has failed to document his findings or evaluation of the condition, the physician has failed to provide	

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F114 (cont'd)					
F115 3. A physician is available to provide care in the absence of any resident's attending physician.			- Level of activity, emotional adjustment. - Evidence in care plans and treatment records that physician's orders are being implemented. - Discrepancies in medication record, diet order, intake and output records. - Evidence that an alternate physician provided care if applicable. - Progress notes by physician at least every 30 days for first 90 days (ICF-at least every 60 days). - Review of medications and treatments every 30 days or 60 days if an alternate schedule of visits has been approved. - Documentation of physician observations, actions and plans for treatment. - Justification for alternate schedule of visits.	evidence of his evaluation of resident needs and supervised care. A physician is available to respond within a reasonable time when a resident needs medical attention.	
F116 4. Medical evaluation is done within 48 hours of admission unless done within 5 days prior to admissions, NOT ICFs.					
F117 5. Each SNF resident is seen by their attending physician at least once every 30 days for the first 90 days after admission.			A few closed records should be reviewed to determine if residents were appropriately discharged by an order written by the attending physician. Also review	Although medical evaluation can be noted as a revision of the previous H&P A statement such as "no change" when in conflict with the status of the	

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F117 (cont'd) Exception: ICF residents must be seen every 60 days unless otherwise justified and documented by the attending physician. F118 6. Each resident's total program of care including medications and treatments is reviewed during a visit by the attending physician at least once every 30 days for the first 90 days and revised as necessary.			discharge plans to assure that they were adequate and implemented. Verbal medication orders are countersigned by a physician. Physician is reviewing all medication orders every quarter.	resident on this admission to the facility, does not constitute a medical evaluation. Verbal medication orders must be countersigned with 48 hours.	

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Exception: Only medications must be reviewed quarterly for ICF residents. F119 7. Progress notes are written and signed by the physician at the time of each visit, and all orders are signed by the physician.					
F120 8. Alternate physician visit schedules that exceed a 30-day schedule adopted after the 90th day following admission are justified by the attending physician in					

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F120 (cont'd) the medical record. These visits cannot exceed 60 days or apply to patients who require specialized rehabilitation schedules. Exception ICF residents must be seen every 60 days unless justified otherwise documented by the attending physician. C. Emergency Services F121 SNF 405.1123(c) F122 Emergency services from a physician are available and provided to each resident who requires emergency care		Ask Staff: - Are you aware of physician reporting procedures and medical protocols to be followed during a fire emergency? - Do you know where names and telephone numbers are of physicians to be called in case of emergency?	- If records document an accident or a medical emergency, was the patient seen by a physician or was the physician notified promptly of the emergency? - Review physician's orders to see if specific medications or treatments were ordered to treat emergency situation if applicable.	- Surveyor verifies that there are readily available written procedures for securing a physician in case of emergency. - Names and telephone numbers are posted or on rolodex. - An alternate physician is designated.	Status Change Notification 405.1121(j)

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F122 (cont'd) INTENT: To assure that a physician has overall responsibility for the management and supervision of the residents care.			- Review physicians progress notes to see if emergency situation was addressed.	- There is provision for: + Notification of attending physician/emergency and other responsible person. + Arrangements for transportation. + Preparation of reports. + There is evidence in the medical records that proper procedures have been carried out. + Residents with sudden changes in condition have been evaluated by the physician.	

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Nursing Services F123 SNF 405.1124					
F124 SNF 405.1124(c) F125 F126 ICF 442.1124(c) A facility provides nursing services sufficient to meet nursing needs of all residents all hours of each day.	Basic care provided to residents: Surveyors should observe the basic care provided by staff to the residents. Listed below are suggested areas of attention which may provide evidence of the quality of personal care: - Eyes/Ears/Mouth + Presence/absence of: + Secretions forming around eyelids, redness or irritation of eyes. + Eyeglasses worn when appropriate are clean, in good repair and fit properly. + Backs of ears scaly, obvious wax build-up, discharge, odor. + Hearing aid worn when appropriate, is in good repair and working. + Dried food particles or drool, etc. around mouth.	Ask Resident: - If the resident's clothing is inappropriate, ask: + Did you choose your clothing today? + Is this what you want to wear? + Do you have other clothing available? - If the resident is not clean, poorly groomed, or inappropriately groomed, ask the resident: + Have you had any help in caring for yourself today (e.g., washing your face, brushing your teeth, etc.)? + How often do you have a bath/shower? + How often is your hair washed? + How often do you brush your teeth/clean your dentures? + Were there extenuating circumstances (e.g.,	Nursing notes, flow sheets or bathing records should indicate that the care plan for grooming and personal hygiene is being followed. For example: - Bathing schedules are being followed (including the use of any soaps or special lotions). - Assistance instruction is being provided as identified for each activity. Nursing documentation should also indicate resident response or any changes in the resident's behavior, reaction to an activity, or the ability to carry out grooming and personal hygiene activities. Look for indications of progress toward a goal or further deterioration of resident functioning.	Refer to information on observation. A pattern of evidence of poor personal care indicates non-compliance unless the care plan specifically deals with this and appropriate planning and implementation is occurring. The regulations require that individual preferences are taken into account when providing for grooming and personal hygiene and that residents are encouraged in self-care activity. Do your patient interviews substantiate compliance with the regulations?	Resident Rights 405.1121(k)(8)(13) 442.311 (g)(k) Social Services 405.1130(a) 442.344 Activities 405.1131 442.345(a)(c) Patient Care Management 405.1124(d) 442.341 Training 405.1121(h) 442.314
F127 Grooming and Personal Hygiene SNF 405.1124(c)					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F127 (cont'd)	+ Dentures worn when appropriate and in good repair. + Oral hygiene. - Odors + presence/absence of: + Body odors - Hair/Scalp + Clean and free of rashes + Hair combed - Nails are clean and appropriate length - Clothing is appropriate, clean, and in good repair. + Extremities elevated as necessary while in chair or wheelchair. + Appropriate techniques to prevent infection. + Use of whirlpool as a treatment modality as available and appropriate. - With resident's permission check: + heels, feet and toes + lateral hip + scapular area + sacrum + buttocks + bony prominences in contact with braces + condition of stump (especially diabetic	resident is participating in dressing retraining program)? - Special consideration might be given to the demented patient who frequently "borrows" clothes and for whom removal may elicit catastrophic reaction—whether clothing "matches" may not be the most important issue in the care of these patients. Ask Direct Care Staff: - How do you choose what clothing each of your residents wear each day? - Do you have a specific schedule for washing residents' hair? - How did you learn to bathe resident? - How did you learn to wash residents hair? - How did you learn to shave residents? - How do you handle situations when residents want to wear dirty clothes, or mismatched clothes? - How much care do you let the residents do on their own?			

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F127 (cont'd)	amputees with elastic bandage or sock removed).				
Skin Condition F128-129 SNF 405.1124(c)	Observe with residents' permission: - General condition of skin + Redness + Blanching + Soft/dry/rough etc. + Rashes/irritation + Bruises + Scabs + Free of above - Measures taken to prevent skin breakdown. - Pressure sores - Pressure sores Rx - Factors contributing to prevention of pressure sores + Overall cleanliness and maintenance of dry and aerated skin (uncompromised by urine/feces/perspiration) + Padding for pressure points and bony prominences including padding on bed/chair + Proper gentle massage to bony areas several times a day.	Ask Resident: - Are your feet usually swollen? - Do you know what causes the swelling? - What do you do to alleviate it? - Is this discoloration normal for you? - How did this wound/bruise develop? - Are the treatments done about the same time every day? - What staff person has looked at your skin recently?	- Look at nursing notes and P.O.C. for evidence of: - Planned preventive measures - Treatments/Intervention including nutrition - Routine assessment/evaluation of skin condition - Documentation of specific skin problems with location number, severity, measurements as appropriate, and cause - Progress or lack of progress in healing - Assessment/Reevaluation of interventions with alterations in plan - Appropriate nutritional plan - Methods to control edema of lower extremities	Preventable pressure sores are not occurring. Ulcers present are treated on a routine basis according to P.O.C. Is skin clean? Is resident dry? Is turning schedule adhered to? Are linens clean and smooth? Do personnel know preventive measures and practice these? Has a nutritional assessment been done, and if appropriate, recommendations implemented?	Dietetic Services 405.1125(i)(c)(e) 442.332(a)(1)(b)(1) Activities 405.1131(b) 442.345(a) Patient Care Management 405.1124(d) 442.341 Training 405.1121(h) 442.314 Rehabilitative Nursing 405.1124(e) 442.342 Supervision of Patient Nutrition 405.1124(f) 442.332(b)(2)

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F128-129 (cont'd)	+ Regular assistance for resident to turn or shift weight (bed-rails, footboards, trapeze). + Bed linens, clothing, underpads smooth and free from wrinkles. + Elastic bandages or hose are smooth and wrinkle free. + Elastic bandages wrapped smooth with appropriate overlap. + Dietary/nutritional support for skin integrity. (See Guidelines for Dietary/Nutrition) + Prevention of shearing force when resident's position altered by staff. + Turning and repositioning as needed. - Care and Treatment: + Turning and repositioning every two hours or as needed (e.g., alternative approach that is justified by the facility.) + Positioning of the ulcer site or protection of affected areas. + Use of effective pressure relief devices.	Ask Direct Care Staff: - What can you tell me about Mr./Mrs. swollen feet/wounds/bruises/etc.? - What do you do for them? Ask Charge Nurse: - How did _____ get cuts, bruises, etc.? - What is being done to prevent further occurrence? - What treatment is he/she receiving?			Resident Super- vision by Physician 405.1123(b)

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Wounds/Wound Dressings F126 SNF 405.1124(c)	- Condition of dressing - i.e., clean, firmly secured unless contraindicated. - Observe, if possible, and with resident's permission, a dressing change + Pre-dressing Removal + Equipment and supplies organized + Hands washed + Residents provided with privacy - Dressing - Is: + Old dressing observed for drainage? + Wound examined + Appropriate technique used + Proper disposal of old dressing? + Post dressing + Does staff member wash hands? + Return resident to comfortable position or previous activity?	Ask Resident: - How often is the dressing changed? - By whom is the dressing changed? - Does it seem dressing changes are frequent enough? - Are there any odors from the dressing? - Is the dressing change always done in a similar way? - If not, what are the differences? - Do you feel confident that the wound is being well cared for? - Is the area/wound healing? - What caused the ulcer, wound, etc.? Is it healing? Does the staff keep you informed of its status? Ask Staff: - Specific treatment and schedule for each resident?	- Physician orders for wound care - Progress notes detailing condition of wound - i.e., size, drainage, surrounding tissue, odor - Treatment provided - Progress/change - Plan of Care (POC) + The plan of care should address: - Area in need of treatment, treatment to be performed, frequency, and responsible staff. - All necessary solutions, ointments, irrigations, types of dressings, and materials. - Any necessary precautions, drains, if present, sutures and tubing. - Specific goals of treatment as well as any problems or limitations imposed as a result of treatment.	Physician orders, your observations, progress notes and POC should reflect the same information. Treatment provided over a period of time with no improvement and no re-evaluation also would represent non-compliance, unless nursing/physician progress notes address the "no improvement" problem. Compliance is evidenced by: - treatment given according to doctor's orders and POC. - use of appropriate technique when caring for wound/changing dressing (e.g. follows facility's written procedures). - periodic evaluation of healing process and revision of care plan as needed.	Physician Services 405.1123 442.346 Infection Control 405.1135(b) Pt. Care Management 405.1124 442.341 Dietetic Services 405.1125(b)(c)(e) 442.332(a)(1)(b)(1) Medical Records 405.1132 442.318

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Restraints F130 When residents require restraints the application is ordered by the physician, applied properly, and released at least every two hours. (See also information under Resident rights—freedom from abuse & restraints)	Direct to evidence of: - Proper application - Proper use - Maintenance of good body alignment - Resident observation, release and exercise Observe frequently throughout your visit to validate care. Specific observations should include the following items: - Type of restraint: belts, wrist or ankle cuffs, blanket restraints, vests, bed nets, locked, etc. (When locked restraints are used can you readily find the key and/or scissors?) as well as geriatric chair or geri-table/tray in place for prolonged periods. - Protective devices and/or safety devices that are used as restraints must be evaluated as restraints. - Appropriate application: skin protected from injury (restraint neither too loose nor too tight to prevent	Use of restraints may be precipitated by an "emergency" situation in which there is a threat to the resident's health or safety, or a threat to the health and safety of others due to the resident's behavior. Restrained residents may not be coherent or rational enough to respond to questions and caution in interviewing therefore, must be exercised. However, observation of a resident in a geri-chair with table in place or a resident in a wheelchair (with vest restraint) for several hours would warrant appropriate questions as to when the staff last assisted him or her to move about or whether the resident would like to get out of the chair. Staff interviews focus on the reason why the resident is restrained. Ask Direct Care Staff and Charge Nurse: - When, why, and how to release and apply restraints? - Why is the resident	- Physician orders for restraint: reason, length of time, type - Progress notes - Describe the resident's status/behavior which prompted the use of the restraint. - If a chemical restraint, the order should indicate a specific time period for its use as well as a stop date. - Plan of Care should + Identify other methods or therapies that are being used in conjunction with restraints. + What alternatives to restraints have been considered. + Identify staff responsible for observing the resident (every 30 minutes), and releasing and exercising the resident (every 2 hours for at least 10 minutes). Time intervals should be identified. + Indicate involvement and input of other disciplines necessary to overcome the problem. + Indicate a specific period of time for	- Is there a physician's order, including the circumstances in which they will be used, the length of use, and the type of restraint? - Is the restraint applied properly? - Is it released at least every two hours and the resident provided with exercise and toilet facilities if needed? - Does the staff observe the resident frequently while he/she is restrained? - Are chemical restraints administered in accordance with physician's orders? - Is the order for restraints renewed only after a reassessment of the patient?	Patient Rights 405.1121(k)(1)(7) 442.311(f)(2)

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F130 (cont'd)	- rubbing and blistering or impeded circulation) - Body alignment and support: use of pillows, footboards, and wheelchair footrests to maintain appropriate posture, circulation, and to prevent skin injury or breakdown. - Periodic release and exercise: exercise may include ambulation, range of motion, massage, or other opportunities for motion (at least 10 minutes every 2 hours during day and evening hours). - Chemical restraints: residents appear drowsy throughout the day (may indicate tranquilizers or other drugs are being used to limit or control behavior for staff convenience).	- restrained? - Has the resident given an option of restraint? - When were you taught the use of restraints? - By whom? - If chemically restrained (excessively sedated) + Why is this done? + Whether alternate means of restraint have been attempted, for how long this will continue, etc. This should elucidate from staff whether the chemical restraint is necessary, or whether it is done for staff convenience by controlling resident behavior - Do you ask the resident for permission before using restraints? - How does the restrained resident summon assistance? - What is the usual time-frame for assistance to reach the restrained resident? - Ask Resident: + Why are you restrained? + What would happen if the restraint were removed? + When do you use bed rails? + What purpose do they serve? + How do you gain assistance?	using the restraint. - Indication of assessment of factors which precipitate residents behavior which has warranted restraints and plans to intervene early enough to prevent occurrence. - Type, duration and frequency of exercise should be documented. - An assessment of why restraints are continued should be documented.		

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Bowel and Bladder F131 Each resident with incontinence is provided with care necessary to encourage continence including frequent toileting and opportunities for rehabilitative training.	- There should be a chart/record in the resident's room on which the program is documented accurately. - If the room is located a distance from the toileting room or for residents with problems ambulating, a commode may be present in the room. - Verify that a call light is available to the resident if non-ambulatory or restrained. - Are fluids available at bedside? - Is there roughage on meal tray? - Diet is appropriate to enhance elimination?	Both the resident and direct care staff should be interviewed and should exhibit a good understanding of the importance of maintaining a regular schedule of elimination. If neither are aware of the intake and toileting schedule, then determine whether they are appropriately planning the resident or carrying out a retraining program. - Verify that the resident is aware that he/she is on a retraining program and knows the content of the program. Ask Resident: Suggested questions are: - How do you deal with constipation/diarrhea? - Are you involved in a special bowel/bladder training program? - If so, how does your program work? - Any problems with it? - Any successes to date? - What does the staff do for you in this matter? - Are they consistent and timely? - How long do you have to wait to be taken to the toilet?	- Physician orders if required by facility policy - Nursing notes for + Assessment + Documentation of techniques and progress, reevaluation - Plan of care - The plan of care should clearly address: + Goals that resident will aim for. + Methods to accomplish the goals. + Schedule for fluid intake. + Schedule for toileting. + Responsible staff + Any limitations the resident may encounter as a result of either incontinence or the training program. - Progress notes/physician orders for cause of incontinence. - Laboratory tests of kidney function when available - Treatment for diarrhea/constipation - Residents preference for treatment of constipation. - Recently admitted and newly incontinent residents should be thoroughly assessed for at	- Are all incontinent patients assessed for cause of incontinence and ability to be helped by a bowel/bladder rehabilitative training program or an incontinence management program? - Are all appropriate residents involved in bladder/bowel training programs or, incontinence management and there is a schedule that shows when the program will be started? - Is there evidence of follow through on all shifts? - For residents not on bowel/bladder retraining programs the plan of care should address specific measures for managing incontinence with a view to prevention of skin and other problems and maintenance of resident dignity.	Nursing Services 405.1124(e) Dietetic Services 405.1125(c)

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F131 (cont'd)	- When a resident puts on his/her call bell for toileting assistance, how long is it before assistance is given? - Observe pre-meal toileting. - Privacy provided. - Schedule for toileting should allow for resident's normal sleep pattern, to avoid disrupted sleep.	Ask Nurses Aides and Charge Nurse: + Will you describe this resident's bowel/bladder (B/B) training program? + How long has it been in effect? + When will you evaluate the results? + If this program is not successful - What assessment was done to determine B/B status - For residents not on B/B retraining programs what is the facility program for managing incontinence?	at least 7 days for the cause of incontinence and when appropriate an intensive bowel and bladder B/B training program should be instituted. - A trial B/B training program is suggested for all residents with incontinence problems. - I & O		
Catheter Care F132 SNF 405.1124(c) Each resident with a urinary catheter receives proper routine care including periodic evaluation	The indwelling catheter should promote a continuous flow of urine unless ordered otherwise. The surveyor should also observe for the following: - Ample supplies for catheter insertion and care. - Proper positioning of the tubing and drainage bag. - Cleanliness of the	Ask Resident: - What is the tubing/catheter for? - Why do you have one? - Does it cause any discomfort? - If it does, what is done about it? - How do you feel about having the catheter? - Is any special care given in relation to the catheter?	The surveyor should verify that there is a physician's order for an indwelling catheter, including the type and frequency of catheter care. If irrigation is ordered, the order should include type of solution and frequency of irrigation. The record should also indicate the color, consistency, and amount of urinary drainage.	*The facility should follow accepted professional standards in their catheter care. - There should be medical reasons for catheter insertion - staff convenience cannot be justification. - Direct care staff should know signs and symptoms of urinary tract	Infection Control 405.1135(b)

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F132 (cont'd)	tubing and drainage bag. - Color and consistency of urine in bag. - Availability and accuracy of documentation on the I&O sheet if ordered or policy. - Proper equipment for ambulation - leg bag if resident is ambulating. (if ordered) - Availability of fluids. - When indicated monitor intake to ensure adequate intake and output or conformance with physician orders. - How many observed residents are on catheter care?	Ask Nursing Aide and Charge Nurse: - How do you routinely position and secure catheters and drainage bags? - How often is each part of the system changed? - What are the indications for insertion of the catheter? - What is the facility's procedure for routine catheter care? - How do you observe for U.I.'s in residents with indwelling catheters? - What is the facility's procedure for the cleansing and storage of reusable catheter equipment and drainage receptacles? - How do you care for catheter tubing?	- Assessment should address: + Need for an indwelling catheter. + Resultant problems or limitations. - Plan of Care should address: + Type of catheter and type and frequency of care. + For irrigation, the rationale, the type of solution, amount, and frequency of irrigation. + Frequency of symptoms which would precipitate catheter change. + Time frames of catheter change and responsible staff. + Appropriate increase in oral fluid intake. - Intervention + The record must reflect: + When and by whom the catheter was inserted and for what reason. + Any special care provided + New problems or changes + Only appropriately trained staff should deliver catheter care. + Only licensed staff should insert	infections (U.T.I.s) and these should be reported and treated promptly. *The Center for Disease Control has developed standards for catheter care which may be used but it is not a requirement.	

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F132 (cont'd)			+ Indwelling catheter. + The specific type and size of equipment used should be noted. + Signs and symptoms of urinary tract infections (UTI) should be acted upon and documented as to follow-up. - Evaluation/Reevaluation - The record should reflect that the resident: + Is assessed for UTI. + Has no abdominal distention. - Notes should also include: + The color and odor of urine and the development of any problems after insertion of indwelling catheter. + Verify that catheter is patent.		

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Injections F133 SNF 1124(c)	- Observe for preparation of injection - i.e. maintenance of sterility; correct dilution, handwashing, before preparation, etc. - Observe injection site for: + Redness + Discoloration + Swelling + Lesions - Observe for proper technique when injection is given + correct site + correct needle size + correct volume of drug + sterility maintained - Resident is observed for any adverse reaction - What is the disposal method for used needles or syringes?	Ask Nurse: - What is your plan for alternating injection sites? Show me. - What is the medication for and what are potential adverse reactions? - Is there nonspecific pain at the injection site or shooting pains down a limb? - Is there skin irritations or lumps under the skin? - If adverse reaction occur, how soon are they reported? - Could this be given by any other route? Ask Resident: Suggested questions are: 1. What kind of medicine do you receive by injection/shot? Why do you need that medicine? 2. Do you have pain or numbness at or around your injection site? 3. Who gives the injection? 4. Do you receive your injection according to a schedule?	- Physician order sheet - Nursing notes for: + Resident response to medication if appropriate + Any problems noted at injection site + Any other adverse reactions - Site of injection - Plan of care - Rotation of injection site - Care for any special problems related to the injection. - Infection Control: reports for any infections connected with injections.	- Is the medication administered according to the physicians order? - Is proper technique used in preparation and administration including site rotation? - Does the nurse administering the medication know the expected action of the drug? - If infection control reports show infections at injection sites. - Is the resident's response to the medication noted in the progress notes?	<u>Staff Development</u> 405.1121(h) 442.314 <u>Infection Control</u> 405.1135(b)

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Parenteral Fluids F133 SNF 405.1124(c)	The surveyor should observe that parenteral fluids are administered with safe, aseptic technique providing fluids as ordered by the physician. Safety and comfort measures are to be taken insuring maximum protection and optimum hydration of the resident. The surveyor should note the following items: - Labeling of the solution bottle/bag, rate of infusion/cc/ml per hour. - Date and time started--additives, if any. - Any signs of swelling or redness at site. - Site dressing is clean, dry and dated. - Accurate I&O of parenteral and P.O. fluids - If splint (armboard) is used, it is applied to prevent movement but not impede circulation. - Positioning of I.V. tubing. - Comfort of restraint used to allow for maximum resident freedom while preventing movement of I.V. site.	Ask Resident: - Why do you have this tube in your (arm)(leg)? - Is it comfortable? - Is there a way it would be more comfortable? - How long has it been in? - How much longer will it stay in? Ask Appropriate Staff: - Why the resident is receiving I.V. therapy? - What the drip rate is (the amount of fluid to be received per hour). - How often the dressing is changed. - How often the tubing is changed. - What are possible side effects? - How often is the site changed? - How often is the infusion checked for drip rate and the remaining volume to be administered? Ask Nursing Aide - What are your responsibilities when caring for a resident receiving IV fluids? - What training have you had?	- Physician's order for parenteral therapy specifying type of fluid, rate of infusion/hour, and additives, if any, is available and current. - Twenty-four hour I&O record. - Nursing documentation indicates physician's orders are being followed. - Any adverse reactions are noted in the medical record. - Record indicates: + Infusion started by whom; cite time, rate of flow + Note is made of observation of pain or swelling at infusion site. + The need or reason for parenteral fluids. + Response to the therapy. + Problems and limitations encountered by the resident as a result of receiving parenteral fluids. - Plan of Care^a. The plan of care should include + type, rate of infusion/hour, and additives (if ordered).	- Is the parenteral fluid administered according to the physician's order and in accordance with accepted nursing practice? - Are infiltrations noted in a timely manner before a large amount of fluid infiltrates? - Is the facility procedure for care of the IV site and tubing changes followed for all patients unless contraindicated? - Does documentation reflect what the patient received, any problems, and his/her response to the parenteral fluid? - Have any adverse effects been caused by administration of IV fluid? - If yes, were these preventable?	Resident Care Policies 405.1121(i) Infection Control 405.1135(b) Patient Care Management 405.1124(d) 442.341

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F133 (cont'd)			specified goals for correction, time frames, and responsible staff. - Documentation must include time administered and by whom, the amount of fluid infused, and any other special care administered as a result of IV therapy (i.e., mouth care, assistance with ADLs, etc.). - The record must reflect: + Conditions of site and any infiltrations, phlebitis, necrosis, etc. noted, along with measures taken to correct these. + The resident's response to therapy + Changes in laboratory studies *Plan of care would not be modified for a one-time IV infusion.		
Colostomy/Ileostomy F133 SNF 405.1124(c)	The surveyor should ascertain that the facility is providing appropriate nursing care to those residents who have had bowel surgery resulting in a colostomy or ileostomy. It is recommended that the surveyor, with the resi-	Ask Resident: - Why was the ostomy performed? - How do you feel about the ostomy? - Does it ever cause you problems (e.i., pain, skin problems, odors, accidents)? If so, what	The surveyor should determine that: - Colostomy irrigations, if ordered, are documented as performed by the resident or appropriately trained staff. - In the case of sigmoid colostomy regular patterns of bowel elimination are	Compliance would be indicated if residents are physically and emotionally comfortable with the ostomy with minimal or no skin problems. If residents are not comfortable with the ostomy, are having skin or other problems, the facility	Patient Care Management 405.1124(d)

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Colostomy/Ileostomy F133 (cont'd)	dents permission, observe care being given to determine that proper techniques are being used. The following steps should be taken to assure that proper ostomy care is being provided. - The ostomy dressing should be changed or the bag emptied and thoroughly cleaned promptly after each bowel evacuation or more frequently, if drainage continues. - The peristomal skin should be cleansed and dried, and appropriate measures taken to prevent excoriation and infection. - The resident's privacy should be considered while providing care. - The resident should be provided with information and instruction in self-care at the appropriate level of understanding. - The resident should be observed for signs of withdrawal, disgust, anxiety, or other emotional responses which may be related to his/	does staff do about it? - What does the staff generally do with or for the ostomy? Are they consistent and timely? - Has staff talked to you about doing some of the care for this? If so, what was the outcome? If not, is this something you'd be interested in learning more about? Ask Staff: + If nurses aid: take care of colostomies? + What do you do if the skin around the colostomy becomes red or sore? + Do you ever teach the residents to care for their own colostomies? - If nurse (RN or LPN) + What is the procedure if the resident becomes constipated? Ask Other Nursing Staff: - Is there a facility procedure for ostomy care? - Do you have skin problems with your	documented as established through management of diet, fluid intake, exercise, and the use of prescribed laxatives, suppositories, and/or irrigations. - Ostomy care is documented in the resident's record along with a description of the excreta. - Problems in irregularity, skin breakdown, or other observable concerns are documented and reported to the physician. - Documentation indicates that nursing measures are taken to assist the resident who is experiencing problems in understanding and/or accepting the presence of the ostomy. - Documentation of nursing measures to maintain skin integrity. - Assessment - The assessment should indicate: + Needs, problems, and limitations as a result of an ostomy. + Specific degree of	should be responding to these and correcting them as reasonable. Care plans should indicate specific goals in relation to problems and specific interventions for reaching these goals. When available an enterostomal therapy nurse should be involved in developing the care plan for residents with urinary and intestinal stomas.	

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Colostomy/Ileostomy F133 (cont'd)	her acceptance of the colostomy/ileostomy. - The surveyor should observe the staff giving ostomy care to verify that proper technique is used.	ostomy residents? - What do you do when skin becomes excoriated? - What teaching do you do with the residents? - What in general is the response to this teaching?	self-care performed or assistance needed. + Special skin care needs. + Special dietary needs. + Emotional support. + Medications and treat- ments if needed. - Plan of Care The plan of care should clearly address: + Specific goals to overcome or improve the problems(s) iden- tified. + Methods to accomplish the goal (training, assistance, super- vision, treatments, emotional support). + Services necessary and who will perform the services. + Time frame for accom- plishing goals.		Social Services 405.1130(a) 442.334(a)(b)

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Respiratory Therapy F133 SNF 405.1124(c)	- Aerosol Compressor or IPPB (Intermittent Positive Pressure Breathing Machine). The surveyor must determine that the facility is providing respiratory therapy as ordered by the physician. Observation for this indicator should focus on the necessary equipment as well as on the resident. In order to determine that the necessary equipment is available, the surveyor must look for the following: + Aerosol compressor or IPPB Machine. Check that the machine is clean and operable. + Tubing - If tubing is not attached to the machine, ask to see it. Check that it is stored dry and with consideration for cleanliness. + Nebulizer Cup - should be attached to tubing. It is filled with either the prescribed medicine or distilled water only if about to be used. It should not be	While interviewing the resident, observe for sounds of congestion. Note color of lips and nail beds. Ask Resident: - Do you ever feel short of breath? - If yes, what is done when this occurs? - Is the therapy helping you to feel better? - Are there any problems with it? - If so, how does the staff respond? - Is the therapy consistently performed - both concerning time and method of providing it. Ask Staff: - What is the reason the resident is getting this therapy? - What are the expected results? - Can you demonstrate how you use the equipment? - How often is the equipment cleaned? - What are the infection control procedures in regard to use of res-	The surveyor should determine that: - Respiratory/oxygen therapy is performed or administered by appropriately trained staff. - There is a physician's order for therapy, and it is specific as to rate of delivery, etc. - If the physician's order is for prn therapy, it should specify for what symptoms. - Any information gained from resident or staff is verified in the record. - Assessment + The assessment should address both the need or reason for therapy and any problems or limitations which result from the need for therapy. - Plan of Care - The surveyor should note: + The kind, amount, frequency, and/or duration of therapy based on the physician's order. + Specific goals to overcome to improve any identified	Only qualified (trained) personnel should administer/assist with respiratory therapy. Therapy must be provided as ordered. The effectiveness of the therapy must be periodically evaluated and therapy revised as appropriate. Effective infection control measures must be practiced. Needed safety precaution for the use of oxygen must be practiced. Equipment should be available and in working order.	Staff Development 405.1121 (h) 442.314 Infection Control 405.1135(b) Patient Care Management 405.1124(d) 442.341

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Respiratory Therapy F133 (cont'd)	stored wet. If it is not attached to the tubing, ask to see it. The mouthpiece is connected to the nebulizer cup. The surveyor should also check that all involved equipment is clean. - Oxygen Therapy The surveyor must establish that the facility is meeting the oxygen needs of the resident. When the facility does not have wall units, check that: + There are enough cylinders for oxygen delivery. + There should be flow meters and regulators for tanks in use. + A wrench should be attached or stored close by. + If using large cylinders (size G or H), look for a carrier since these tanks cannot be transported without it. + The cylinder at the resident's bedside should either be on	piratory equipment? - What training was given you in the use of this equipment? - Where is the emergency oxygen supply?	problems and/or limitations. + Specific methods to accomplish the goals (observation, supervision, training, etc.). + Who is responsible to perform therapy or assist in accomplishment of goal. - Intervention - - The record should display evidence that: + The plan of care is functional + The therapy was administered in accordance with physician's order for the specified reason(s) by an appropriately trained staff member + Change in condition is documented and acted upon promptly. - Evaluation/Reevaluation - The record should reflect: + The resident's response to therapy. + If response was undesirable, evidence of further intervention. + Any progress, deterioration, or development of new problems.		Physical Environment 405.1134 (i) Medical Records 405.1132 442.318

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Respiratory Therapy F133 (cont'd)	the carrier, sitting on a metal skirt, or otherwise secured. + There should be other necessary equipment available such as humidifiers, nebulizers, masks, nasal cannulas, I-pieces, etc., all should be dry and clean when stored. + Check to see that non bed-bound residents are not limited to their own chair/room when using oxygen (portable units will prevent social isolation. + Water reservoir is appropriately filled per manufacturers instructions. + Check to make certain the tank is not empty and that any tank is labeled as such. + Check for good oral hygiene of resident. + The room should be posted with a "No Smoking" sign. - Residents on respirators: + Are alarm systems turned on?	Residents on Respirators Ask Staff (all levels): - What training have you had in caring for	+ Based on the above information, possible modification of goals.		

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Respiratory Therapy F133 (cont'd)	+ Is sufficient Oxygen supply available? + Is the ventilator accessible to an emergency outlet? + Is the resident in a location that allows for frequent observation by staff? + How does the resident communicate with staff? + What level of staff (aide, LPN, RN) caring for the resident? + Is such equipment at bedside? + Is there reserve back-up equipment? + What is the condition of the residents skin around intubation tube/tracheostomy. + Does the care given use appropriate technique in caring of the patient?	residents on respirators? - Can you show me how the alarm system works? - What is your procedure for pulmonary care? - What is your procedure for changing tubing and the water reservoir? - What happens if the power goes off?			

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Tracheostomy Care F133 SNF 405.1124(c)	Satisfactory tracheostomy care is a procedure which promotes a clean, unobstructed air passageway and maintains the skin integrity surrounding the tracheostomy site. The surveyor should determine whether: - Adequate supplies are available for the care of the tracheostomy such as tracheostomy kits, hydrogen peroxide, normal saline or sterile water, suction machine, catheter, sterile gloves, and clean dressings. - The resident is breathing without difficulty and is comfortable. - The dressing is clean, dry, and intact; the cannula is clean, in the proper position, and secured. - The skin surrounding trach is clean and dry with no redness or inflammation. - The resident has adequate oral hygiene. - An extra tube, the same size as the one in	Resident interviews must be guided by the resident's communication ability. Ask Resident: - How long will you have it? - What care can you do for yourself? - What do you need help with? - Who helps you? - Is someone always available to suction him/her when needed? - Is the suction equipment always available in working order? - Is the dressing kept clean and comfortable? - Is the tube kept clean and changed as needed? - How often are the tubes and dressings changed? - Does he/she feel confident in the personnel caring for his tracheostomy? - What is communicating with staff and other residents like? - Are staff patient and do they allow you enough time to express your needs/thoughts/feelings? - May I observe your tracheostomy care? Ask Staff: - Why does resident have	- The surveyor should determine that tracheostomy care is done as scheduled and as needed following the proper procedure. - Any special solutions that are needed should be addressed in the physician's orders. - Assessment - The record should reflect that the need for tracheostomy care was assessed in terms of: + Frequency + Skin integrity surrounding the tracheostomy, noting redness, inflammation, and/or excoriations. - Plan of Care should include: + Specific times of trach care and the responsible, appropriate trained person performing this task. + Specific problems relating to skin and breathing as well as the goals set to overcome these problems + Listing the appropriate personnel responsible. + Time frames for resolving problems	Stoma and surrounding skin should be in good condition and if not, there should be treatment directed to resolving this problem. All staff caring for the tracheostomy must be trained and emergency procedures must be known. All needed equipment must be available and in working order. Resident must at all times have readily available a means of communicating with the staff in an emergency.	Infection Control 405.1135 (b) Training 405.1121(h) 442.314 Patient Care Management 405.1124(d) Physicians Services 405.1123(b) Social Services 405.1130(a)

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Tracheostomy Care F133 (cont'd)	place, is available at bedside. - Does resident have an adequate method of communicating with the staff? - Does staff allow enough time for residents to communicate?	tracheostomy? - What training were you given to enable you to care for tracheostomies? - What is the procedure for tracheostomy care? - How often is the tube changed? - What do you do if the tube comes out? - May I watch you do a dressing change? - If not convenient, describe what you do. [- How do you communicate with a tracheostomized resident?]	+ listed in goals. + Plan for periodic assessment of appropriateness of residents own self care re: teaching or nursing assuming more responsibility as appropriate. - Intervention - The surveyor should look for documentation of: + Trach care and oral hygiene administration, including responsible personnel, time and date, and effects. + Any problems or changes noted in resident condition (e.g., redness, swelling, tracheal obstruction). + Emotional response to tracheostomy. - Evaluation/Reevaluation + Resident is or is not benefiting from trach care and skin care. + If problems are noted, the progress notes and plans for care should indicate changes in treatment. + Resident's emotional response to care of the tracheostomy should be evaluated.		

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Tracheostomy Care F133 (cont'd)			since this may require additional care planning.		
Suctioning F133 SNF 405.1124(c)	Suctioning is necessary for any resident who is unable to cough up secretions that are obstructing his airway. Suctioning may occur via the oral or nasal route, or stoma route with sterile technique. Attempts should be made to observe a resident being suctioned should such an opportunity arise. If so, observe that a clean/aseptic technique is observed throughout and that the resident tolerated the procedure. There should not be bloody aspirant, cyanosis, or bronchospasm. Check that equipment is in good working order, frequency of procedure, etc. Resident observations which indicate need for intervention include: - Secretions are draining from a resident's mouth or trach and the resident is unable to	Ask Resident: - How are you feeling now after the suctioning? Does the suctioning seem to help? - Has staff explained to you the need for suctioning? Why do you need to be suctioned? How often? - Who performs the suctioning (i.e., nurses or nurses aides)? Do you feel safe with the staff performing the suctioning? - Does everyone do it about the same way? Ask Staff: - When and where did you learn to suction? - Tell me what procedure you use when you suction a resident. - Do you always have enough suction machines and catheters? - How frequently is suction tubing changed? - What provisions do you have for suctioning if the electricity is lost?	- Assessment - The record should reflect that: + The resident is frequently observed for suctioning needs. + Any limitations a resident has as a result of his suctioning needs should be specifically noted. + Any problems resulting must be specified. - Plan of Care should include: + Awareness of the resident's suctioning needs, goals, approaches, and responsible staff needed to improve the problem or at least to maintain the resident at his present status without further deterioration. - The plan must clearly indicate specific approaches towards: - Prevention of skin problems around the trach if one exists. - Correction of any existing skin pro-	- All equipment must be available and in working order. - All staff caring for the resident must know what to do in an emergency. - Current professionally accepted standards of care must be maintained.	Infection Control 405.1135(b) Patient Care Management 405.1124(d)

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Suctioning F133 (cont'd)	cough or clear himself. - There are audible crackles or wheezes and/or diminished breath sounds. - The resident is dyspneic. - Restlessness or agitation may also be an indication that suctioning is needed. Upon completion of suctioning above symptoms should, in most cases, be relieved. The surveyor should observe that the resident is positioned to facilitate breathing (usually at a 45 degree angle). Check to see that the facility has an ample supply of suction machines and suction catheters to meet the needs of residents requiring them and that they are clean and properly stored.	- Where are your emergency electrical outlets? - What is your procedure for disposing of the secretions from suctioning? - How often does Mrs./Mr. need to be suctioned? - May I observe you when you suction Mrs./Mr.?	- blms. - Provision of good oral hygiene including a rigid schedule for mouth care, schedules, or procedures for maintaining clean equipment at bedside, as well as disposal of used (dirty) equipment. - Route of suctioning (i.e., oral/nasal/trach). - Intervention - The record should indicate clearly that: + The plan of care is being implemented. Documentation should reflect: + The number of times the resident required suctioning, for what specific reason, and by whom the resident was suctioned. + Any special treatment the resident received in conjunction with suctioning.		

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Suctioning F133 (cont'd)			(i.e., oral hygiene, skin care, etc.). - Evaluation/Reevaluation reflect: + How well the resident tolerates suctioning procedures. + Any bloody aspirant, cyanosis, or bronchospasm. + Further interventions utilized to overcome or improve these. + The amount of sputum as well as its color and consistency. + Any progress or lack of progress, deterioration, and/or the development of new problems. + The evaluation should determine whether goals are being reached or if new goals must be addressed.		
Tube Feedings F133 SNF 405.1124(c)	- Staff use proper technique in administering feedings and medications. Check to see that staff checks for location of tube before feeding and that tubing	If the resident is able to be interviewed, suggested questions may be: Do you feel comfortable/safe with all the staff who perform the feeding?	Tube Feeding Review: - Plan of care - Must document tube placement and formula potency prior to each feeding.	- Has the feeding been ordered by a physician? - Is tube feeding nutritionally adequate? - Have attempts been made to discontinue tube feeding if indicated?	Nursing Services 405.1124(d)(f) 442.338(a)(2) Meal Service 442.331(c)

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Tube Feedings F133 (cont'd)	is irrigated before and after addition of medication. - The tube is clean and formula flows freely. - The equipment is clean and protected. If dressings are ordered, they are in place, clean, and dry. - The nasal tube is securely but comfortably secured on the face with skin maintained intact and without irritation. - The skin around the gastrostomy is kept clean and free from irritation or infection. It should be checked carefully for leakage of gastric contents. - A resident who has a N/G tube for a prolonged period of time should be observed for possible complications, such as nasal erosion, sinusitis, esophagitis, gastric ulceration, and pulmonary infection. - Resident is fed slowly with head elevated to 45° during feeding and at least 1 hour post-feeding.	If not, what happens? Are you losing or gaining weight? What is your goal? Ask Staff: - Please describe how you would carry out a resident's tube feeding.	- In the case of continuous feeding, tube placement must be documented at least every 4 hours. - Naso gastric tube must be secured in a manner that avoids creating pressure on the nose and nasopharynx. - Identify frequency, amt. of feeding based on the physician's order and time span over which each feeding is accomplished. - Medication and treatment records. - Fluid intake records. - Number of calories as well as amount of additional water. - Documentation present regarding removal and reinsertion of tubes. - Record should indicate measures taken to prevent diarrhea and constipation and to treat if they have developed.	- Is skin free from irritation; mouth care is given several times daily? (More frequent mouth care in the case of continuous feeding.) - Have changes in resident condition been noted and addressed (weight loss, constipation, diarrhea, skin condition)? - Have observed problems been coordinated with other departments and resolved? - Is feeding being monitored to ensure that feeding is occurring at the ordered/appropriate rate? - Varied supplements as preferences allow?	Dietetic Services 405.1125(c)

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Tube Feedings F133 (cont'd)	- Supplies for mouth care are in evidence, observe if possible for technique; mouth shows evidence of good care (i.e., moist, clean.)				
Nursing Services F137 SNF (405.1124) ICF (442.338) B. Twenty-four hour nursing.	Are personnel performing duties that are allowed under the State Nurse Practice Act? Do you observe care being rendered in an appropriate, competent manner?	Ask Resident: - Do residents generally feel that people taking care of them know what they are doing? - If no, explain. - Are your treatments done in a consistent manner? - If no, explain. - Do you feel that there are enough people here to take care of you? - If no, explain. - How long do you usually wait for help when you put your call light on? - Is there anything that doesn't get done as often as it should? Ask Staff: - Do you feel qualified to do all the work you are assigned to do? - If no, explain. - Do you feel you have enough training to keep up with the care the residents require?	- Review progress notes to determine who is giving care. - Review care plan to determine who the facility has assigned to care responsibility to. - Check staffing sheets for minimal requirements and time and attendance for actual staffing. - Review charts maintained for ADL medications, I & O, restraints, etc., to assure that sufficient staff are available for carrying out responsibilities as specified in patient care plans.	All nursing personnel must function within their State Nursing Practice Act. Levels of staffing meet at least minimum requirements. Nursing care needs must be identified by the facility & documentation, resident and staff interviews should determine if these needs are met. All nursing staff should have education or training to prepare them for the care they perform.	Patient Rights 405.1121(k)(g) Patient Care Policies 405.1121(l) Medical Records 405.1132(c) 442.318(a)(c) Patient Care Management 405.1124(d) 442.341 Staff Development 405.1121(h) 442.314
F137 1. Assigned duties consistent with their education and experience/characteristics of the resident load.	Does the time schedule posted indicate that at least the minimum required personnel are scheduled and actually on duty? What is the usual response time before a call bell is answered?				
F138 2. Weekly time schedules are maintained.	In SNF's is an RN on duty during the day? Are licensed staff and aide staff functioning in appropriate roles? Where are staff spending their time?				
F139 3. There is a sufficient number of nursing staff					

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F139 (cont'd) available to meet the total needs of all resi- dents.	Check for staff who are actually on duty.	- If no, what else do you need?			
F140 4. There is a registered nurse on the day tour of duty 7 days a week (for SNF only). <u>Intent</u> That all resi- dents are cared for by personnel qualified to pro- vide the care & that sufficient numbers & class- ifications of personnel are available.					

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Patient Care Management F167 SNF 405.1124(d) F168 ICF 442.341	Observe resident level of physical, mental, emotional and social functioning. Note problems, potential problems, needs, using observation/interview/record review work sheet.	Ask Resident: - Are you aware that you have a plan of care? - Did you participate in developing a plan of care? - Do you/your family know what the plan is and details? (e.g., diet, ambulation, dressing, etc.) - Do you attend and participate in plan of care meetings? - Who else attends the plan of care meetings? - When did you last attend the meeting for your plan of care? - Does the staff assist you in achieving the goals on the plan of care? If not, who does or why not? - Do you have all necessary assistive devices and equipment? - Is there anything that is not part of your plan of care that you think should be included? - What happens if you question any treatment or procedure? Can you give an example?	Review: - Plan of care The content of the plan of care is of primary importance rather than the format. Separate care plans are not required for each discipline, but may be accepted if there is evidence that the various disciplines coordinate their planning. - Nursing assessment/re-assessments and notes. - Physician orders. - Assessment notes. - Assessments/evaluations and progress notes from all professional disciplines as appropriate. - Medication and treatment records as applicable. - Lab reports, as applicable.	- Are all resident's needs/problems identified? - Is the plan developed to meet these needs? - Does the plan demonstrate an interdisciplinary approach, and include: + Goals stated in measurable/observable terms? + Approaches (staff action) to meet the resident action goals? + Responsible disciplines/staff responsible for approaches to assist resident in achieving goal/goals? + Is plan being reassessed and changed as needed to reflect current status? + Does plan of care accurately reflect information gained from observation, interview and record review?	Physician Services 405.1123 442.346 Medical Records 405.1132 442.318 Resident Rights 405.1121(k) 442.311 24 Hour Nursing Service 405.1124 442.338 Specialized Rehabilitation Services 405.1126 442.343 Training 405.1121(h) 442.314 Resident Rooms 405.1134(e) 442.325 442.326 Infection Control 405.1135 442.328 442.324
F170 8. Each professional service identifies needs,					

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F 170 (cont'd) goals, plans, and evaluates the effectiveness of interventions plus institutes changes in the plan of care in a timely manner. INTENT The intent is to assure that the facility identifies the resident's (with residents/family input if applicable) needs through the coordinated efforts of all disciplines.		Ask Staff: - What is your input into resident's plan of care? - What aspect of the resident plan of care are you carrying out? - What is this particular resident's plan of care? - How do you assist the resident in carrying out the plan of care? - Who attends the care planning meeting? - Is the plan of care useful to you in caring for the resident? - Is there anything the resident needs that is not addressed in the plan of care? - How often is it reassessed?			<u>Social Services</u> 405.1130 405.1130(a) 442.344(d) <u>Activities</u> 405.1131 442.345 <u>Dietetic Services</u> 442.1135 442.332

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Restorative Nursing Activities of Daily Living F171-176 SNF 405.1124(e) ICF 442.342 442.343(a)(c)	A. Observe residents in need of assistance. 1. Is needed assistance provided? 2. Is resident provided assistance and instruction, in as appropriate, in all ADL's to increase his/her level of independence? 3. Does staff minimize pain/discomfort while assisting resident? 4. Is resident taught transfer techniques? 5. Is resident assisted to toilet in timely manner? 6. Resident personal equipment available & within reach? Glasses Hearing aids Dentures [Artificial larynx]	Ask Resident: - What assistance do you need with bathing and/or dressing? Who helps you? - Does the staff plan with you your dressing/bathing schedule? - Do the nursing and activities staff coordinate your schedule so that you have the opportunity to participate in favorite activities? - Are you able to dress/bathe at times convenient for you? - Are you bathed consistently? (i.e., on the day(s) scheduled does the bath get performed?) - Where are you bathed? (bed, shower, tub?) - Are there adequate clothes available for you to wear? - Do they come back from laundry in appropriate condition? - How do you get in and out of bed? - If staff assists you, do they seem to be able to do their job appropriately? Do you always feel safe when	Review: - Plan of care + Reflects assessment, goals, methods to reach goals, service providers, evaluation, and achievement. + Addresses restorative nursing assessment, program initiation, implementation and evaluation of the progress over a reasonable time period. Professional judgment determines the assessment of appropriate time frames. + Identifies planning for potential discharge for all residents to determine a disposition on home care or an alternate level of care. - Nursing Notes + Demonstrate evidence of assessment, intervention, response to treatments/teaching and their progress toward independence, a maintenance level, or a deterioration. + Provide evidence of interdisciplinary conferences.	Are patient needs identified? Verify that the plan of care addresses resident needs and is implemented as scheduled and that all appropriate information is documented. If goals are not reached, has a reevaluation been performed and goals revised? Does restorative nursing assist the resident to acquire a higher level of independence? Is sufficient time allowed to resident for learning to increase his/her level of independence? Are assistive devices used regularly as per plan and are they in good repair? Is there an assessment, and if appropriate, a plan for each ADL that the resident needs to gain independence in? Maintenance goals should be noted as appropriate.	Physicians Services 405.1124(a)(b) Nursing Services 405.1124(a)(b)(c) 442.342 Dietetic Services 405.1125(a) 442.331(c) Activities 405.1131(a)(b) 442.345(a)(b) Specialized Rehab. Services 405.1126 442.343(e)(1)(2)
<u>INTENT</u> To assist the resident to attain or maintain his/her maximum level of independence and function?					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F171-176 (cont'd)	Prosthetic devices (eg. braces, artificial extremities). Adaptive equipment (e.g., built-up spoon, reachers). Orthotic devices (eg. splints, AFO's). Restraints (eg. vest, waist, wrist, ankle, mitts, nets, geri-chairs). Grooming items (eg. comb, brush, shaver). Oral hygiene (eg. toothbrush, toothpaste, mouthwash, denture cup). Self-feeding devices. Assistive devices for special sensory loss needs (eg. communication boards, large print books, magnifiers, writing tablets, picture cards, talking books). Training/re-training Prosthetic management Stroke adapted ADL's Self-injections of medications Bowel/Bladder Self-feeding Self grooming Ambulation	being helped? - Are staff members encouraging you to do things for yourself? - Do you have any problems getting to the bathroom on time? - Do you have any problems with leakage when you sneeze, laugh or at any other particular time? - How does the staff help you with these problems? - Are they aware of the problems? - Do you bowels move regularly? - If not, what do you/staff do about this? - Are you able to feed yourself? - Are you able to get to the dining room by yourself? If not, why? In that case, what does staff do about this? - How long have you been up today? - Do you usually lie down for a rest? - If you need help getting into or out of bed, is staff available to help you when you need it? - Where do you spend most of your time - in your chair, wheelchair or in bed?			
ADL's (cont'd)					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F171-176 (cont'd)	Colostomy/Ileostomy Care Respiratory Care (oxygen inhalation) Speech Mobility Upper extremity dressing Lower extremity dressing Observe at mealtime whether staff encourages/guides residents in self-feeding or feeds the residents.	Does anyone move your arms or legs or help you with exercises? - Have your sleeping habits changed since you came to the nursing home? If yes, in what way? - Are you able to get help during the night if needed? + What kind of help is needed? + Is staff response timely? - Do you feel there are adequate care supplies at this facility? - If not, can you give me an example of why you feel this way? - Is your family involved in assisting you or if learning to help you? - Do you feel there is adequate staff at this facility? - If not, can you give me an example of why you feel this way? - Does staff assist and/or encourage activities (e.g., R.O.M., ambulation ADL, communication programs, feeding)? - How often does staff assist in activities? - Is there anything resident would like to do			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F171-176 (cont'd)		for himself/herself that staff is doing? - Is resident comfortable (e.g. free from pain)? - Is your cane/walker/crutches comfortable for you to use? - Did anyone measure you so you have the right size cane/walker/crutches? - Did anyone show you the correct way to use your cane/walker/crutches? - If the facility arranged so that you can get around easily? Ask Activities Staff Do you provide information to nursing staff about time and place of activities, plus names of residents who are to attend or those who might be interested in attending? Chair-bound Resident Ask Resident: - Does he/she know why he/she is in a chair? - Is resident assisted to use bathroom? - Is resident comfortable? - Does he/she see therapist? (O.T., Speech, P.T.) and how often? - Does resident go to a			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F171-176 (cont'd)		therapy area or does therapist come to resident? - Is able to reach items needed? <u>Ask Nurses Aide</u> - Who give you information about the time and place of activities and which residents are to attend? - How are you given this information? - How do you encourage a resident to do the most for himself? <u>Wheelchair Resident</u> <u>Ask Resident:</u> - Does he/she know why he/she needs a wheelchair? - Is resident trained and/or encouraged in independent W/C ambulation and activity? - Does resident know how to lock and unlock wheelchair? <u>Ask Staff:</u> - How is a resident set up for independent W/C ambulation? - Nurse Aide - has resident received instruction in transfer techniques? <u>For Bed Bound Resident</u> In addition to appropriate interview questions above:			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F171-176 (cont'd)		Ask Resident: - How do you spend your day? - Can you do some things for yourself? - Does the staff give you a chance to learn self-care skills? Ask Nurse: - If the resident had access to a recliner chair, would he/she be able to be out of bed? - Is the time out of bed coordinated with the activity schedule and necessary care? Ask Nurses Aide: - Does this resident do any self-care? Why not? - If no, has anyone tried to teach him/her to do some care?			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Positioning F175 SNF 405.1124(e)	Observe residents in bed, chairs, restrained, or in "protective devices" for: - body alignment - positioning - contractures (when did they occur and what is being done)? - ROM program (observe extent & technique of provider) - Assistive devices (overhead pulleys, slings, splints, etc.) - Turning/repositioning schedule and adherence to the schedule. - Devices to maintain positioning, i.e., sandbags, extra pillows, etc.	Ask Resident: - How often are you turned/repositioned by the staff? - Is that often enough? - Are you comfortable now? - Do you have any pain or discomfort? Where? - How long have you had joint stiffness (contractures)? - What kinds of exercise do you do every day, including range of motion (ROM)? How long does the exercise last and how frequently do you exercise each week? - Do you wear special devices? How often? - Consistently? - Are they always applied and removed appropriately and promptly? - How Often? - By whom? Bed Rest Resident Ask Resident: - Why do you have to stay in bed? - How often does staff get you OOB? - Do they know how to get you up? - Who sets you up and/or assists you in bedside ADL's? - Does staff, therapist check positioning, supportive devices?	- MD orders for non-nsg interventions/treatments. - Plan of care should include at a minimum: + Restorative goals + specific joints to be exercised + devices to be used in positioning + frequency of treatment or repositioning information + resident teaching + services responsible for carrying out the procedures + time frames for reaching goals - Nursing progress notes indicate: + Plan has been implemented + progress toward goals + Response to information from reevaluation/repositioning schedule	Plan of care should be complete (addressing resident positioning needs) and plan is implemented on a daily basis. Care givers are knowledgeable re plan content. Residents are turned as scheduled. In good body alignment with proper assistive devices & equipment. Contractures are prevented and/or treated. Plan is reviewed, reevaluated and revised at least quarterly, but must be done as often as patient condition dictates. Ask aide assigned to demonstrate the hand holds he/she uses for ROM. If aide doesn't know, ROM is probably not being done. Do it "at bath time" is not sufficient.	Rehabilitative Services 405.1126(h) 442.343(c)(2) MD Orders Activities Resident Rights Nursing-Staffing Inservice Social Service Dietary
Intent To assure that the resident is positioned at all times to promote maximum therapeutic benefit and comfort, as well as safety.	Specific Observations for the Bed Resident (as appropriate to condition). Positioning/body alignment Resting splints & correct application Foot positioning boards Trapeze Hand rolls Elbow/leg splints & correct application Restraints Siderails (padded) Special mattresses				

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F175 (cont'd)	Blankets/pillows Clean, smooth linen Clean, appropriate bed wear Turning schedules ROM schedule O.O.B. (as tolerated) Water available All adaptive devices are clean and in good repair. All assistive supportive devices are clean and in good repair. Specific Observation for the QOB Resident in Chair (geri-chair, lounge chair in room, as appropriate to condition) Arrangement of room facilitates residents optimal independence (e.g., independent eating, grooming, T.V., radio, water). Positioning/body alignment. Blankets/lap robe, pillows, foot stool. Hand rolls, splints. Clean, dry attire. Pressure relief device. Restraints, with release & activity schedule. Call bell available.	- When? - Does staff answer call bells promptly? How soon? - Is resident able to reach items (e.g., water call bell, urinal, emesis basin, tissues)? - How much confidence do you have when the nurses are helping you transfer, or turn and so on? - Does resident go to therapy area or does therapist come to resident? <u>Bed Rest Resident</u> <u>Ask Staff:</u> - How often is position changed? - What activity is done at the time (e.g., R.O.M., toileting, OOB, grooming)? - What can resident do independently? - Is equipment available? - Who maintains and cleans the equipment? - What is the schedule for this? - What training have you had to learn to position patients correctly?			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F175 (cont'd)	<u>Specific Observation for the Wheel Chair Resident</u> (as appropriate to condition, including deliberate alterations made to equipment for specific reasons.) - Proper fit - Good working condition - Appropriate arm rest, footrest, leg support, lap tray - Proper positioning - Pressure relief aids, (e.g., gel flotation pads, egg crate mattress, sheepskin) - Set up for independent W/C ambulation - Functional adapted toilet area - Transfer techniques Observe how staff wheel the resident (e.g., do they inform before starting movement)? Are patients moved wheeling forward and facing elevator doors? Observe staff for: - verbal cues - physical support - body mechanics <u>Specific Observation for the Ambulatory Resident</u> (as appropriate to condition) - Gait (steady/unsteady) - Appropriate devices for	- Was there any part of your orientation when you first came to work here that addressed positioning? - Do you have any periodic reviews/updates on positioning? <u>Chair-Bound Resident</u> <u>Ask Staff:</u> - How often is resident repositioned/taken out of chair? - What is the activity at time of repositioning and/or release of the restraint? - What can resident do independently? <u>Ambulatory Resident</u> <u>Ask Staff:</u> - Is resident encouraged to independently ambulate to and from activities and dining room (with or without personal assistance)? - Does resident do as much as he/she can independently? - What does resident do? - How do you know that resident is maximally independent? - If it is not working independently, how do			

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F175 (cont'd)	ambulation (e.g., cane, crutches, hemi-sling) - Posture - Appropriate staff assistance in ambulation - Grab bars (halls, bath/shower area) - Functionally adapted toilet area	you deal with it? - Is there something resident would like to do that he/she is not allowed to do (e.g., shave self, apply make-up, style own hair)? - What training have you had in learning to position residents and do range of motion? - What opportunity do you have for ongoing training? - Who does the actual training? Check question placement under Interviewing. May be more appropriate for resident's rights section. Observe wheeling technique used by staff.			
Nursing Services G. Administration of Drugs F183-184 SNF 405.1124(g) ICF 442.337 F186 1. The patient is identified prior to administration of a drug.	Observe a drug pass with at least 20 residents receiving medication. See SOM Appendix N. Transmittal No. 174 for details of the Surveyor Methodology for Detecting Medication Errors. - Observe medication administration techniques (e.g., hand-	Ask Resident - Do you always receive your medication on time? - If not, what is the problem? - Do you receive the correct medication? - What does it look like? - Who explained your medications to you? - What reactions do you have? - What happens if you have a question or refuse to take your medication? - Who gives you your medication? - Do your medications change in appearance?	Review the medication administration record. (as appropriate) See S.O.M. Appendix N, Transmittal No. 174 for details of the record review.	If the combined total of significant & non-significant errors is 5% or above, a deficiency is present. Any significant error is cause for a deficiency. See Appendix N for details.	Physician Services 405.1124(b)(7) Pharmaceutical Services 405.1127(a) 442.336(a)(b)

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F187 2. Drugs and biologicals are administered as soon after doses are prepared. F188 b. Administered by same person who prepared the doses for administration except under single unit dose packet distribution system. Exception: ICF residents may self administer medications with their physician's permission.	washing, pouring of dosage, position of resident).	- Do the nurses stay with you when you take your medication? - Do any of the medications bother you? Ask Staff: - Do you generally have available the medications you need? - Are there any problems in administering medications? Note drug doses refused by resident and how handled by staff.			

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
H. Conformance with Physician Drug Orders F189 F190 F191 SNF 405.1124(h) ICF 442.334(a) Drugs are administered in accordance with written orders of the attending physician. <u>Intent</u> All residents receive medications as ordered by the physician.	Combine with observation of drug pass.		- Review the latest recap of the physicians orders - Review the medication administration record (as appropriate) - See S.O.M. Appendix N, Transmittal No. 174 for details of the record review.	See Appendix N for details	Physician Services 405.1123(b)(7)

SURVEY AREA CROSS REFERENCE	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	
DIETETIC SERVICES (Condition of Participation) F193 SNF (405.1125)	o Specific Observations which might be indica- live of possible nutri- tion problems: Clinical - underweight/ overweight - dehydration - edema - cracked lips - pallor - dull or dry hair - swollen or red tongue - bleeding gums - decubitus ulcers - infections o Physiologic factors which may affect intake: - Swallowing diffi- culties - Vomiting - Food intolerance - Poor dentition - Sore mouth - Constipation - Diarrhea - Inability to feed self - Decreased visual and olfactory acuity - Unable to communicate - Loss of appetite o Psychological/Social - Confusion	Ask dietary manager to explain the procedure for making substitutions and recording the changes. - Is menu usually followed? Ask Resident: 1. How are your meals? 2. Are there foods you are not allowed to have? 3. Are you on a special diet? 4. Do you receive foods that are not appro- priate for your diet? If so, what do you and the staff do about that? 5. What time do you re- ceive breakfast, lunch, and supper? Do you always receive a meal at mealtime? If not, why? What happens then? 6. Do you like the taste of the food? 7. Is the temperature appropriate (i.e., milk chilled, coffee hot, etc.)? 8. Do you get enough to eat? What do you do if you're still hungry after a meal?	Review Nutrition assessment for the following documentation: o Usual/ideal body weight/ height o Dietary allergies/ sensitivities, ability to chew and swallow regular foods without difficulty. o Full or partial dentures o Mental and emotional condition o Physical appearance, skin condition o Appetite and food pre- ference. o Vitamin and mineral supplements. o Food and fluid intake in measurable terms and frequency of meals. o Degree of assistance needed in eating, related mobility, vision, or other identi- fied problems. o Medications (e.g., diuretics, insulin, antibiotics, etc.) o Related laboratory findings (e.g., fasting blood sugar, cholestero- l, sodium, potassium, hemoglobin, BUN, serum albumin, transferrin or creatinine-height index if available).	o Were physician diet orders followed? o Did nursing plan for feeding and assistance at mealtime? o Is there rehabilitative use of assistive de- vices, if appropriate? o Is modification of consistency of meals made if resident has a problem or change in condition? o Are between meal and bedtime snacks pro- vided as needed? o Is socialization at meals provided? o Has dietitian provided counseling of resident and family as needed (related to diet)? o Usual body weight is maintained/supported? o Is there evidence that the plan is being carried out (e.g., doc- umentation in the resi- dent's chart, observa- tion by the surveyor, and resident/staff interviews)? If the resident refuses meals or does not respond to intervention, the notes in the chart should indicate efforts to intervene or provide counseling.	Physician Services 405.1123 442.346 Medical Records 405.1132 442.318 Nursing Services 405.1124(e)(f) Specialized Rehabilitative Services 405.1126 Patient Care Management 405.1124(d)
F196 Menus are planned and followed to meet the nutri- tional needs of each resident in accordance with physicians' orders and, to the extent medically possible, based on the recom- mended dietary al- lowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F196(cont'd) Intent Ensures that each resident receives food in the amount, kind, and consistency to support optimal nutritional status.	- Excessive food likes and dislikes - Refusal to eat - Selected biochemical changes which might indicate changes in nutritional status: - Visceral protein status - serum albumin - transferrin - BUN - Serum electrolytes - During mealtime observe the resident for: - adherence to food preferences - adequate space for eating - self-feeding skills - proper position for eating - ability to eat foods served - use of adaptive feeding devices - amount of food actually eaten - protection of resident's clothes - amount of time resident is allowed to chew and swallow - Assistance provided as needed to and from dining area - All beverages are covered]	9. Do you receive nourishment in the evening? Do you have a choice about what you want to eat? 10. Do you receive medicines during meals? If yes, do you know what it is or what it is for? 11. Do you get food from outside of facility that you buy or family brings? How often? What kind of food? 12. How often does anyone from the kitchen come to ascertain your feelings and opinions on the food service, your portion size, etc.? 13. Where do you eat (e.g., dining room, your room, etc.)? Is this your choice? Do you have a choice of where you eat? 14. How often have you seen a therapist for your swallowing difficulties? "How has the therapist instructed you/staff/family on methods to improve your swallowing?" Ask Dietician - Describe the meal planning input you receive from residents.	- Food/drug interactions - Mental/emotional assessment as it relates to resident's food habits. Review: - Plan of Care - Nursing Notes Review: - Physicians orders - Progress notes - Notes from other professional disciplines as appropriate. Nutritional status depends not only on adequacy of the food and how the body uses it. While the surveyor is not responsible for individual nutritional assessments of residents, when specific information is needed during the survey to make a compliance decision, the surveyor will utilize the following minimum assessment guideline: Menu Evaluation - Adequate in energy and nutrients - Protein - Calories	Is there evidence that the resident's progress is regularly observed (e.g., awareness of food and fluid intake such as acceptance of foods, food consumed, and resident's appetite)? - Is fluid intake for resident encouraged, Foley catheter, problem feeders monitored? - Is there general evidence as to whether poor resident conditions are due to poor care or whether the facility has taken appropriate measures to prevent or resolve problems. - Is there indication of progress toward desired outcomes? If not, is the evidence of re-evaluation available within specified time frames? - When the anthropometric and clinical data do not correlate with dietary data, (food intake, dietary supplements) the surveyor should take note that the problem may not be nutritional.	Nursing Services -405.1124(f)

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F196(cont'd)	Assistance being provided in case of choking, incontinence, falling, or other emergencies. Nursing Staff supervision of dining areas including residents' rooms during meal times.		- Vitamin C - Calcium Selected evaluation of residents for in depth review: A check list can be used to evaluate daily menus for basic foods: (use standard serving portions) Daily food plan should include: MILK GROUP 1 pt milk MEAT GROUP 5 equivalents: * 1 equivalent equals 1 oz. of meat (edible portion) weighed after cooking (this includes eggs, dried peas, beans, nuts, and all meat, fish and poultry). VEGETABLE AND FRUIT GROUP 5 servings or more, including a dark green or deep yellow vegetable for vitamin A value every other day and a citrus fruit or other fruit rich in Vitamin C daily.		

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F196 (cont'd)	Observe serving portions sizes on all menu items: MILK GROUP - 1 pint daily Source of: Protein Calcium Phosphorus B Complex MEAT GROUP - 5 lean meat equivalents (1 meat equivalent = 1 oz meat, poultry, fish, cheese & eggs; also dried peas, beans, and nuts). Source of: Protein Iron Vitamin B12 VEGETABLE AND FRUIT GROUP - 5 servings or more (1/2 cup = 1 serving) Source of: Vitamin A, C, B6, Folic acid, Fiber BREAD-CEREAL-POTATO-LEGUME-PASTA GROUP - 7 servings (1 serving = 1 slice bread; 1/2 cup other; 3/4 cup flake-type cereal).		BREAD-CEREAL-POTATO-LEGUME-PASTA GROUP 7 servings FATS AND SWEETS (Without this group the diet contains 1,415 Kcal) Diets should be adapted from facility's currently approved diet manual. Menus are dated and contain minimum portion sizes. Are substitutions noted on the file copy? Are substitutions made within the same food group i.e., meat for another source of protein in the meat group, or vegetable of similar nutritional value?		

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F196 (cont'd)	FATS AND SWEETS (to increase caloric intake) IODIZED SALT (unless contraindicated) Adequate fiber in diet		o Documentation of decision to withdraw or begin artificial feeding and hydration. Check menus for variety Are they specific (i.e., states kinds of fruit, juice, vegetable)? DIETARY SERVICES SELECTED NUTRITIONAL REQUIREMENT RECORD REVIEW N.B. The basal energy expenditure (BEE) and calorie requirement using Harris-Benedict formula recognizes the variation in energy needs for individuals. 1. <u>Anthropometry- Weight/Height</u> NOTE: The following sample formulas and guidelines are not the only acceptable guides available. The surveyor should ask to use the assessment guidelines used by the facility before using the ones provided here. o Important indicator of nutritional outcomes. o Disease state can have adverse effect on desired body weight.		

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F196 (cont'd)			2. <u>Weight for Height Calculation</u> Females: Allow 100 lbs. for first 5 ft. of height plus 5 lbs. for each additional inch Males: Allow 106 lbs. for first 5 ft. of height plus 6 lbs. for each additional inch <u>Estimating Caloric Needs</u> 1. <u>FORMULA: Harris-Benedict Equation</u> Men: $66 + (13.7 \times \text{Wt. in Kg}) + (5 \times \text{Ht. in cm}) - (6.8 \times \text{Age}) = \text{BEE}$ Women: $65.5 + 9.6 \times \text{Wt. in Kg.} + (1.7 \times \text{Ht. in cm}) - (4.7 \times \text{Age}) = \text{BEE}$ Parenteral Anabolic: $1.75 \times \text{BEE}$ Oral Anabolic: $1.5 \times \text{BEE}$ (Kcals)		

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F196 (cont'd)			Oral Maintenance: 1.20 x BEE (kcal) <u>Metric Conversions</u> (Approx) pounds (lb.) x 0.45 = kilograms (Kg) inches (in.) x 2.5 = centimeters (cm) <u>Estimating Protein Needs</u> 1. Allow 0.8 gram protein per kilogram of ideal body weight. 2. Increase to 1.2 - 1.5 gm/kg for patients with depleted protein stores (decubitus, draining wounds, fractures, etc.). <u>Fluid Requirement</u> Based on actual body weight: Over 55 years with no major cardiac or renal diseases: (NOTE: 2.2 lbs. equals 1 kg of body weight)		

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE																							
F196 (cont'd)			Example: 120 lbs/2.2 lbs. = 54.5 kg (55 kgs) 55 kg x 30 cc = 1,650 cc/day Note: Isotonic Standard Tube Feeding = Approximately 80% water. <u>Amputation % of Body Weight</u> <table><tr><td>Leg</td><td>20%</td></tr><tr><td>Below Knees</td><td>10%</td></tr><tr><td>Arm</td><td>6%</td></tr><tr><td>At Elbow</td><td>3.6%</td></tr></table> <u>Suggested Standards for Evaluating Significance of Weight Loss</u> % of body weight loss <table><tr><td>Inter- val</td><td>Significant Loss</td><td>Severe Loss</td></tr><tr><td>1 week</td><td>1-2%</td><td>2%</td></tr><tr><td>1 month</td><td>5%</td><td>5%</td></tr><tr><td>3 months</td><td>7 1/2%</td><td>7 1/2%</td></tr><tr><td>6 months</td><td>10%</td><td>10%</td></tr></table> From Blackburn, et al: "Nu- tritional and Metabolic Assessment of the Hospital- ized Patient: JPEN vol. 1, 1977.	Leg	20%	Below Knees	10%	Arm	6%	At Elbow	3.6%	Inter- val	Significant Loss	Severe Loss	1 week	1-2%	2%	1 month	5%	5%	3 months	7 1/2%	7 1/2%	6 months	10%	10%		
Leg	20%																											
Below Knees	10%																											
Arm	6%																											
At Elbow	3.6%																											
Inter- val	Significant Loss	Severe Loss																										
1 week	1-2%	2%																										
1 month	5%	5%																										
3 months	7 1/2%	7 1/2%																										
6 months	10%	10%																										

LONG TERM CARE SURVEY

LONG TERM CARE SURVEY					
SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F196 (cont'd)			Lab Indices for Visceral Proteins Albumin g/dl Total Lymphocyte Count (cu/mm) Transferrin (If Available)	Mild Deficiency3.5-3.21800-1500200-180 Moderate Deficiency3.2-2.81500-900180-160 Severe Deficiency2.8900160	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
B. Therapeutic Diets	System for the provision of diets:	Ask Staff:	Review:		Nursing Services 405.1124 405.1124(c) (d.) Patient care plan (f.) Supervision of patient nutrition
F197 SNF 405.1125(c)	o Dietetic service Kardex or file	o Number, type of therapeutic diets?	- Physician diet orders in medical record		
	o Therapeutic menus	o Time of nourishment activity, who's responsible?	- Nurses' Kardex		
	o Nourishment preparation and service	o Nourishment provided for day of survey?	- Dietary Kardex		
F198 ICF 442.332(b)(1)(2)	o Adequacy of nourishment		- Therapeutic diet menu		
	o Individual menus or diet cards		- Diet cards		
F199	SPECIAL FEEDINGS: The surveyor should also attempt to observe that:	The surveyor should interview staff regarding their knowledge of the feeding schedule and training in administering tube feedings. Some residents having difficulty in speaking or swallowing with the tube in place (i.e., poor toleration). The surveyor should inquire if mouth feeding was attempted.	Note: - Consider appropriateness of special diet-updated and reviewed since admission. - Progress notes reflect reevaluation of resident's progress on diet.	On Pureed diets: o Ordered by physician o Prepared fresh daily o Same calories and/or food groups as if served whole. Pureed foods are coordinated with general/regular menu.	
F182	o Staff use proper technique in administering feedings and medications. Check to see that staff checks for location of tube before feeding and that tubing is irrigated before and after addition of medication. o Unused milk-based tube feeding should be discarded in a timely manner	Ask Resident: If the resident is able to be interviewed, suggested questions may be: 1. How long have you been fed by this tube? 2. When was the last time you tried to eat by mouth? What happened? 3. How often do you receive the feeding? Is this consistent?	Selected number of residents on therapeutic diets should be considered for indepth reviews. Tube Feeding Review: - Plan of Care - Identify frequency, amt. of feeding based on the physician's order and the time span over which each feeding is accomplished. - Medication and treatment records - Fluid intake records - Number of calories as	On Tube Feeding: o Has the feeding been ordered by physician? o Is tube feeding nutritionally adequate? o Have attempts been made to progress tube feeding if indicated? o Have changes in resident condition been noted and addressed.	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F197-199 (cont'd)		4. Does the staff help you in feeding? Do you feel comfortable/safe with all the staff who perform the feeding? If not, what happens? 5. Are you losing or gaining weight? What is your goal? 6. How often is the tube changed? Who does this? Do you feel comfortable/safe with all staff who perform this procedure? <u>Interview staff regarding knowledge of diabetic diets.</u> o What nourishment does the diabetic patient receive? o If diabetic patient refuses the meal, what is done to supplement the meal? <u>If resident is able to be interviewed, suggested questions:</u> 1. How long have you been on your diabetic diet? 2. Do you know some of foods you must avoid? What are they?	well as amount of additional water - Periodic reassessment of ability to swallow - Record should indicate measures taken to prevent diarrhea and constipation and to treat if they have developed.	weight loss, constipation, diarrhea, skin condition)? - o Have observed problems been coordinated with other departments and resolved? - o Is feeding being monitored to ensure that feeding is occurring at the ordered/appropriate rate? - o Varied nourishments as preferences allow? On Diabetic Diets and Other Therapeutic Diets - o Ordered by Physician - o Varied, nutritionally adequate - o Individualized to suit resident - o Re-evaluation indicates diet meets objectives. If not appropriate, documentation is provided - o Laboratory results support diagnosis - o Between meals nourishment provided as needed and recorded in measurable amounts.	

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F197-199 (cont'd) F198 Therapeutic diets prescribed by the attending physician	Observe tray/meal service: o Low sodium diets are palatable (taste) o Sugar sources on diabetic diet trays o Salt sources on sodium restricted diet trays.	3. Do you receive a nourishment between meals or before going to bed?			
F199 Therapeutic menus are planned in writing, prepared and served as ordered with supervision from the dietitian and advice from the physician whenever necessary.	Functioning system to provide the needed nutrients: - Resident's general appearance - Meal service + Food acceptance + Adherence to food preferences - Food supplement + Type to support + Method of service + Assistance provided + Timely provision as ordered - Portion sizes - Conforms to physicians orders	FOR THE RESIDENT WITH DECUBITUS ULCERS Ask Staff: 1. Regarding knowledge of dietary needs. 2. What do you do when this resident refuses milk, meats, bread, etc.? 3. What nourishments are provided to this resident? How often? 4. What happens when a weight loss is noticed with this resident? Ask Resident: 1. Has anyone talked with you about the importance of eating your meals? 2. Do you get foods that you don't eat on your tray? 3. When do you feel hungry? 4. Do you get between meal nourishments?	1. Identify residents with conditions that immobilize or prevent voluntary body movement. 2. Identify location, number, size and depth of decubitus ulcers. 3. Calculations of kilocaloric and protein levels as needed. 4. Micronutrient need assessment and recommendation. 5. Progress notes + monitor weight + monitor healing of decubitus ulcers. 6. Pertinent Laboratory Data + Hemoglobin/Hematocrit + Serum Albumin + Total Lymphocyte Count 7. Fluid Intake + sufficient to maintain hydration	A system is in place to provide the type and amount of nutritional support needed by the residents who have developed decubitus ulcers. Food and supplementation are provided in a method to ensure intake of nutrients needed by residents with decubitus ulcers. Nutritional intervention is assessed and reassessed to ensure appropriate intervention for acceptable health care outcome.	Nursing Service 405.1124 (d) Patient Care Plan (f) Supervision of Patient Nutrition

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OBSERVATION

SURVEY AREA

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F197-199 (cont'd) F198 Therapeutic diets prescribed by the attending physician F199 Therapeutic menus are planned in writing, prepared and served as ordered with supervision from the dietitian and advice from the physician whenever necessary.	RENAL REVIEW System in place for the correct provision of renal diets. - Individualized menu - Dietary Staff Utilize menu when serving diets.	Interview Staff regarding knowledge of renal diets: 1. What foods should be restricted when a patient has kidney problems? 2. What nourishments are given to these patients? 3. Are fluids restricted? Ask Resident: 1. Are you on a special diet? 2. What foods must you avoid? 3. Do you feel hungry? 4. Do you eat everything at mealtimes? 5. Are the foods the kitchen sends you the correct ones for your diet? 6. Has the dietitian explained your diet to you?	Renal Patient Diet Review - Pertinent Laboratory Data + Serum Sodium + BUN + Serum Potassium + Albumin + Hematocrit + Creatinine - Pertinent Medications + Vitamin/Mineral + Supplements - Weight gains/losses	On Renal Diets - Ordered by physician - Written menu nutritionally complete in so far as medically possible, including calories - Individualized to suit resident - Laboratory testing as needed - Coordination with dialysis unit to determine effectiveness of diet	Nursing Service 405.1124 (d) Patient Care Plan (f) Supervision of Patient Nutrition

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
C. Preparation F204 SNF 405.1125(e)	Observe: o Feeding assistance is provided or not provided by staff o Length of time residents sit and wait for meal service o Food is served soon after cooking or refrigerated o Trays are free of spillage of foods or liquids o Foods are appropriately covered and kept at a proper temperature o Cooking and service utensils are clean, sanitary and greaseless o Refrigerated foods must be covered o Leftover and pre-cooked foods must be dated and labeled o All cooked food stored above raw meats in refrigerator o Temperature gauge on or in refrigerator to record temperature o Shelving to allow air circulation o Food not stored in refrigerator must be stored off the floor (This is applicable to food stored in walk-in refrigerator and freezer.)		Review: o Plan of Care o Progress notes o Notes from other professional disciplines to determine rehabilitation potential to self feed, use of assistance devices. o Record of food substitution to determine alternate choice provided o Standardized recipes	The facility has kitchen and dietetic service areas adequate to meet the food service needs. These areas are properly ventilated, arranged, and equipped for sanitary refrigeration, storage, and preparation of food. Equipment and storage areas are clean, well maintained, within proper temperatures ranges, and safe Proper temperatures: (Fahrenheit) Frozen food storage -- 0 or below Cold food storage -- 40-45 degrees Hot food holding equipment -- 140 degrees minimum Dishwasher wash cycle -- 150 - 160 degrees Dishwasher rinse cycle -- 160-180 degrees or a color change in thermopaper; or adherence to manufacturers recommendations	
F205 1. Food is prepared by methods that conserve its nutritive value and flavor.					
F206 2. Meals are palatable, served at proper temperatures. They are cut, ground, chopped, pureed or in a form which meets individual resident needs.					
F207 3. If a resident refuses food served, appropriate substitutes of similar nutritive value are offered.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F207 (Cont'd) INTENT To provide foods that are safe and nutritious SNF 495.1125(e)	- No rust on shelves - No dripping or spillage on shelves and floors - Degree to which diet modification is commensurate with residents tolerance and capability - Residents for meal satisfaction - Observe appearance of food color, texture, aroma, and flavor - Less than 75% of meal is consumed - Type of substitutions provided		- Progress notes - Diet card - Day's menu substitute record	Dietary personnel are clean and free of infectious disease. They practice acceptable techniques and procedures to keep foods at proper temperatures and protected against contamination. Is dietary information pertinent to dietary modification? Has resident been assessed for eating program to maintain independence? The food substitute is of similar nutritive value as the refused item (e.g., milk refused, alternate of calcium rich food should be provided.	

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
D. Frequency F208 SNF 405.1124(d)	o Menus as under A on page 63 o Who serves nourishments o Nourishment list and schedule	Interview various residents about the nourishment service: o Are nourishments offered routinely? o At what time are they offered? o By whom? o What kind of nourishments are offered?	<u>Review</u> o Menu as under A o Nourishment List	Three meals or their equivalent are served daily with not more than a 14-hour span between the evening meal and breakfast. The nourishment service is more difficult to evaluate: must find evidence that patients are offered nourishments on a planned basis and documented.	
F209 ICF 442.331(a)					
F210 1. At least three meals are served daily at regular hours with not more than a 14-hour span between a substantial evening meal and breakfast.					
F211 2. To the extent medically possible, bedtime nourishments are offered to all residents					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
E. Staffing F212 SNF 405.1125 (a)	- Food service personnel are on duty for all defined dietary responsibilities: - Supervision - Food Preparation - Dishwashing - Cleaning - Duty Schedules	- Interview personnel to verify that they are aware of their responsibilities and job descriptions.		- From an assessment of the total dietetic service operation: + The dietetic supervisor is capable of the overall management and supervision of the dietetic service. + There are dietetic personnel on duty over a 12-hour period who demonstrate ability to perform tasks adequately. + Dietetic personnel receive appropriate orientation and training consistent with their duties and responsibilities. There is evidence that the dietetic staff are knowledgeable about food service policies and procedures and apply these accepted professional practices in their daily work. + Services provided are consistent with the size, scope and facilities available.	
F213 1. Food service personnel are on duty daily over a period of 12 or more hours. <u>Intent</u> Persons are providing services commensurate with their level of training; and at the level of sophistication needed by the residents.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
SPECIALIZED REHABILITATIVE SERVICES F214 SNF 405.1126 F215 SNF 405.1126(b) F216 ICF 442.343	OBSERVE RESIDENTS As per "Restorative Nursing Activities of Daily Living" SNF 405.1124(e)(2)(b) ALSO: OBSERVE RESIDENTS IN THERAPY AREAS: - Is privacy provided during treatment, as applicable (e.g., cubicle curtains, room dividers, one to one area)? - Is there appropriate, courteous resident/staff interaction? - Are therapy areas appropriate to treatment given (e.g., small, quiet area for speech/language/hearing test and sessions, large for P.T., exercise and therapy groups, O.T. perceptual testing/splinting, A.D.L. adaptations area, as applicable)? - Is equipment clean and in good working condition? Is it operating as per manufacturer instructions (e.g., hydrocollator temp., paraffin, whirlpool, etc.)?	ASK RESIDENT: (or ask staff, if resident has severe communication problem): - Are you receiving any kind of therapy? P.T.? O.P.? Speech? - What kinds of therapist(s) are working with you on your swallowing problem? - What kinds of therapists have instructed you on how to improve your swallowing? - How do the methods to improve swallowing help you? - How often do you see the therapist? - What happens if the therapist is absent for scheduled treatments? - Where do you receive your therapy? - How long have you been receiving therapy? - Do other staff members assist with therapy? Who and in what way? - Are you in a comfortable environment (room temperature, privacy, etc.)? - Do you have input into developing or revising your therapy treatments? - What things did you do immediately before entering this facility, that you are unable to do now? ASK THERAPY STAFF: - How many days/hours per week do you provide therapy? - Do you participate in the development of the resident's overall plan of care? In what way? - Do you utilize P.T.	REVIEW: - Plan of care - Doctors' orders - Nursing assessment and progress notes - Aide assignment sheets - Therapy assessments/evaluations (includes a minimum of): + name, age, date, diagnoses + referring physician and reason for referral + history, precautions, limitations + objective documentation (e.g., tests, measurements) + rehabilitation potential - Treatment plan (includes a minimum of): + specific rehabilitation needs and objectives + treatment to meet specific measurable rehabilitative goals + Type, amount, frequency, duration, modalities + name of therapist(s) who will provide treatment + restorative nursing follow-thru (recommendations for plan of care)	- Are rehabilitation services integrated with restorative nursing? - Do therapists participate in development of resident plan of care? - Do observations and interviews indicate that services are provided in conjunction with 24 hour nursing, and in accordance with the overall plan of care regarding restorative nursing and specialized rehabilitation services?	<u>Nursing Services</u> 405.1124 442.338 442.319 442.341 <u>Physician Services</u> 405.1123 442.346 <u>Medical Records</u> 405.1132 442.318 <u>Activities Program</u> 405.1131 442.345 <u>Resident Rights</u> 405.1121(k) 442.311 <u>Training</u> 405.1121(h) 442.311 <u>Infection Control</u> 405.1135 442.315 442.327 442.328

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F218 (cont'd) professional practices by qualified therapists or qualified assistants. C. PROGRESS ICF 442.343(f)	- Are assistive devices being provided as needed? - Do assistive devices fit well, function and are used properly (e.g., wheelchairs, crutches, braces, glasses, hearing aids, canes, artificial limbs assistive eating devices)? - Is staff responsive to resident expressions of discomfort? - How are the prescribed treatments and training meeting the needs of the resident? - Are parallel bars sturdy and well secured to floor? Are systems designed for weight lifting sturdy and well secured; if attached to wall with rigging and hand grips in good conditions? - Are nonverbal residents provided with means of communication (e.g., writing tablets and utensils, picture cards)? - Are visually impaired residents provided with	"aides" In what way (if interviewed the registered physical therapist)? - How do you assure carry-over of therapeutics in your absence? - How often do you provide inservice to staff? - What topics are covered? Do you have opportunities to attend inservices? - How do you communicate patient progress/regression, etc. with physician, nursing personnel, family, other disciplines? - How many residents currently are receiving P.T., O.T., Speech-language pathology and audiology therapy (SLP/AT)? - Do you utilize the services of a certified occupational/therapy assistant (if interviewing the registered occupational therapist)? - If so, in what way? - Is space available for the conduction of your therapy? - Is equipment readily available to meet resident needs? - Is there a coordinated interdisciplinary	+ identifies modalities that will be delegated to non-skill staff - Progress notes indicate that plan of rehabilitation care has been re-evaluated by the physician and therapist as necessary but at least every 30 days. - Communication with physician: + 2 week progress after initiation + monthly progress + discharge summary - Treatment documentation: + frequency + summary		Physical Environment 405.1134 442.324 442.325 442.326 442.328 442.329 442.330 Dietetic Services 405.1125(e) 442.329 442.331(c)
F219 1. A report of the resident's progress is communicated to the attending physician within 2 weeks of the initiation of specialized rehabilitative services. EXCEPTION: ICF resident's progress must be reviewed regularly.					

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magnifiers and large print books? - Is equipment such as whirlpool cleaned between patients?	approach toward rehabilitation of the geriatric resident evident in your facility? In what way do you see this?				
F220 2. The resident's progress is thereafter reviewed regularly and the plan of rehabilitative care is re-evaluated as necessary. But at least every 30 days by the physician and therapist.					
EXCEPTION ICF resident's plan must be revised as necessary ININT Therapy services are provided that will assist the resident to attain his/her optimal level of function.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Pharmaceutical Services F221 SNF 405.1127	- Observe residents for excess sedation or adverse effects: + drooling + shuffling gait + involuntary movements of limbs, tongue, facial muscles + loss of affect + drowsiness + postural abnormalities + pill rolling movement - Observe for depression agitation	Ask Resident: - Are you aware of the medications you are taking—use, frequency, contraindications? - Has your physician discussed the medications you are taking, with you? - How many medications are you taking? - How do you feel the medication helps you? - How do medications bother you? (e.g., make you feel nauseated or dizzy) - Have you told anyone about this? Ask Staff: - How often does the pharmacist review the resident's medications? - To whom does he report any irregularities? - When the pharmacist reports irregularities, what is done about it? - To whom do you report any problems about medication? - Do you feel the residents are receiving the proper medications, amount and kind? - Is the pharmacist available to you for consultation?	- Review medical record: - to see if pharmacist or nurse has reviewed a drug regimen on a monthly basis. - for evidence that the reviewer has reported irregularities to the physician or other who has authority to correct the irregularities for evidence that the irregularities have been evaluated. - review nurses notes, progress notes, care plan, etc. for any adverse reaction to medication and indication that corrective action was taken. - screen the drug therapy of the residents included in the sample using the indicators (forms if prepared) outlined in SOM Appendix N Transmittal #174. - review pharmacists drug regimen monthly reports to determine if pharmacist has commented on potential irregularities, screened out through this process (need full year).	Reviews were performed in the facility. There was evidence of a review performed on every resident whose record was reviewed in depth. In records reviewed, the average prescription utilization was not substantially over 6.1. If it is, review for appropriateness. Apparent irregularities were identified and reported. * Refer to SOM Appendix N in 174 for further information on drug regimen review.	Physicians Services 405.1123(b) 442.346 Nursing Services 405.1124 442.338
F222 A. Supervision F223 ICF 442.336(a)(b)					
F224 SNF 405.1127(a) The pharmacist reviews the drug regimen of each resident at least monthly & reports any irregularities to the medical director and administrator.					
A registered nurse may be utilized to perform this monthly review for ICF residents. Also the attending or staff physician must review medication quarterly.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F224 (cont'd)		- Where does the pharmacist perform his drug regimen review?			
B. Labeling of Drugs and Biologicals	Observe labels of medications for residents observed on drug pass tour for:				
F225 SNF 405.1127(c)	- name of drug - dosage form - strength of drug - quantity of drug - expiration date - presence of a control number - appropriate accessory or cautionary statement				
F226 ICF 442.333					
F227 The labeling of drugs and biologicals is based on currently accepted professional principles and includes the appropriate accessory and cautionary instructions as well as an expiration date when applicable.					
INIENI To assure that residents receive medications as ordered and that they are monitored for possible side effects.					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Laboratory and Radiological Services	Observe symptoms of targeted residents, e.g., drainage, odors, jaundice, fevers, edema, etc.	Ask Nursing/Rehabilitative Staff: - What do you do when you think a resident needs laboratory work done - blood work, cultures, etc.? - How long does it take to get lab results back? - What do you do with the results when they do come back? - Do you have any problems with your laboratory services? - How are lab specimens stored? - Do you have any instruction from the lab regarding collection and storage of specimens?	Review the physician's order sheet to see if: - orders for lab services are signed - that there are orders for tests that have been done. Nursing progress notes are reviewed for documentation of physician notification of lab results. Physician progress notes or other documentation indicating that the physician is aware of lab results. There are lab reports on the medical record for all tests ordered (except if just performed).	There must be signed physician orders for all lab/radiology services performed. Record results of all testing in the medical record. There is documentation in nursing or physician notes to indicate the results of lab tests were promptly communicated to the physician. When lab tests are performed the resident should be informed of significant findings and the possible therapeutic alternatives.	Nursing Services 405.1124(a)(b)(c) 442.343 Physician Services 405.1123(b)
F228 SNF 405.1128					
F229 SNF 405.1128 (a)					
A. Provision of Services					
F230					
1. All services are provided only on the orders of a physician.					
F231					
2. The attending physician is notified promptly of findings.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F232	3. Signed and dated reports of a clinical laboratory, x-ray and other diagnostic services are filled with the patient's medical record.				
	INTENT To assure that lab tests are performed as ordered and findings are reported to physicians are made aware of symptoms that may require lab tests.				

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Social Services F233 SNF 405.1130 F234 SNF 405.1130(a) F235 ICF 442.344(d) A. Plan F236 The medically related social and emotional needs of the residents are identified. B. Provision of Services	Observe resident for: - level of alertness - behavior exhibited (disoriented, confused, uncooperative, disruptive, aggressive, anxious, withdrawn, isolated, lonely). - personal appearance - apparent disabilities - apparent vision and/or hearing problems they exhibit as you talk to them - interaction to staff, other residents, family, visitors - participation in group activities - independence in activities, decision making - Therapeutic staff intervention: constructive reaction to resident's behavior - resident's participation on policy making bodies and committees of facility, e.g., resident councils.	- How long have you been in the facility? - Can you explain to me why you are here? - Have you had any problem adjusting to the facility i.e., loss of independence? - Have you had any other problems? - Has staff been helpful, e.g., financial? - Do you have any family or any other visitors? - Do they have any problems with which this facility has not been helpful? - If exhibiting disruptive depressed, agitated, anxious, etc. behavior- I noticed that you are upset (quiet, nervous, unhappy) today. Can you tell me what has bothered you? - Does staff respond to your suggestions about your own care? - Did you participate in planning what care you will get and who will give it to you? - Do you make use of the dining, activity, community room, and/or outdoor area?	Review medical records of residents selected for in-depth review to determine that: - Assessment and plan of care identifies residents medically related social and emotional needs and/or problems. - Resident's family and home situation, information related to medical and nursing requirements, and community resources are considered in making decisions regarding the residents care. - Medical records contain current specific information signed and dated which highlights the social and emotional needs of the resident and significant findings and actions are entered promptly in the medical record. - Social service notes address the following, if applicable: + losses due to aging and relationship with staff and other residents + mental status + behavior problems + adjustment to the facility + illness	The residents social and emotional needs are identified. The plan of care addresses those needs. The plan of care is being followed, reviewed and revised as necessary. The family's needs and concerns are addressed if applicable. There is referral to appropriate agencies if necessary. Sufficient space is provided for private meetings and discussions. While it is not a program requirement a social worker or other staff may contribute to the resident's care plans by indicating personal strengths that can be used to build upon.	Nursing Services SNF 405.1124 ICF 442.338 Activities SNF 405.1131 ICF 442.345(a)(c)(d) Physicians Services SNF 405.1123(b) ICF 442.346 Patient Care Management SNF 1124(d) ICF 442.346 Physical Environment SNF 405.1130(b) ICF 442.344(c)
F237 1. Services are provided to meet the social and emotional needs by the facility or by referral to an appropriate social agency.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F233-238 (cont'd)		- Can you tell me about your life here? What do you do in a usual day? - Are things like getting up, bathing, dressing, eating, done at the same time for everyone? - If you could change some things about living here, what would you change?	- Plan of care, social service notes, reflect the current status of the resident. - There is evidence that the residents mental status has been considered when plan of care was developed. - Vision and hearing problems have been addressed. - Plan of care addresses residents needs as observed by the surveyor and stated by the resident. - Notes and plan indicate that needs have been re-evaluated and care plan changed as necessary. - There is evidence that the problems and needs of the family have been addressed. - There are indications that a referral has been made to the appropriate agency and a statement describing why. - There is documentation from the outside agency indicating what actions were taken and any plan for follow-up.		
F238	2. If financial assistance is indicated, arrangements are made promptly for referral to an appropriate agency.	Ask Social Worker/Nurse -When the social worker is readily available, delete "ask the nurse". -How often is the resident seen by a social worker?" - Who is responsible for identifying the resident's: + social and emotional needs + family and home situation + problems and needs + financial needs - How are needs identified and reported? - Does resident participate in the development of his/her care plan? - Ask nursing how often the social worker sees resident. - Does the social worker discuss residents needs/problems with nursing staff if there is a need for nursing to be involved?			

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OBSERVATION

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F233-238 (cont'd)		- How is physician notified and involved in plan of care? - Ask social service staff their role, function, and what services they provide. - Ask staff what referral services are available. - If services are being provided by outside resource, are resources documented work service? - Ask social service staff about their background and education. - If there is a consultant ask staff: + How often does the person come? + How long do they stay? + What does the person do while in the facility? + What assistance, consultation is being provided? + Ask social service staff if adequate space is provided for them by the facility to conduct private interviews and meetings.	- The time period between date of referral and date of services is reasonable and if not, there is evidence of follow-thru by staff. - The outside agency has documented their involvement and activities. - Plan of care demonstrates awareness of behavior, articulates the reasons for it, and indicates in the plan of care an approach to the behavior. - Assessment should contain: + a flexible approach to each resident (should be individualized). + awareness of a mental status evaluation. + resident history. + family availability for planning, resident support, etc. + identification of problems resulting from placement. + recent social adjustment. + discharge planning. - The record reflects	- There is documentation of collaboration between nursing and social work for meeting emotional needs.	Patient Care Management 405.1124(d)

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F233-238 (cont'd)			Social Service intervention with family and resident, i.e., grief and bereavement counseling. - Review integrated plan of care for: + Plan for concerted social services. + Plan for supportive services for adjustment. - Adjustment goals. - Interventions for specific conditions.		
Activities					
F239 SNF 405.1131	General level of activities throughout the facility, as well as in specifically designated areas.	- How does he/she spend the day? - Of the activities resident has during the week, what does he/she enjoy most/least? - If has none, why? - Has staff asked about his/her interests?	Activities Assessment Interests of the resident (past and present) are identified as to resident's current capabilities and necessary adaptations to pursue their interests.	Are each resident's personal interests known? If not, what actions are being taken to identify them? Residents in facility 60 days should not be without some identified interests.	Nursing Services 405.1124 442.319
F240 SNF 405.1131(b)	How many residents are lying on their beds or sitting in chairs staring at the walls during waking hours?	Suggested specific activities or people to get acquainted with in response to interests?	Documentation that information about social history, medical problems and limitations impacting residents' activities have been communicated to activities personnel and used in assessment and development of activities portion of care plan.		Social Services 405.1130 442.344
F241 ICF 442.345	What is the level of residents interest in activities they are doing?	What organized activities has he/she participated in this past week?		Are each resident's needs identified? If not, what actions are being taken to identify them?	Special Rehabilitative Services 405.1126 442.363
F242	Are residents positioned correctly for activity?	How does resident find out about upcoming programs or happenings?		Have medical contraindications been identified in the care plans?	Physician Services 405.1123 442.329
1. An ongoing program of meaningful activities is provided based on identified needs and				Needs and contraindications of residents in the facility more than 30 days should be known and/or have a plan of action.	

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F242-(cont'd) interests of each resident. It is designed to promote opportunities for engaging in normal pursuits, including religious activities of their choice, if any.	Are needed personal equipment (e.g., splints, glasses) and adaptations for limitations and safety (e.g., cardholder, goggles, footrests) used in activities?	- Does resident get out of facility to activities? - Does resident have problems getting to activities? If so, does the staff assist? - Does the staff encourage residents to go to activities? - Does resident participate in Resident Council? - Does resident have free choice of activities? - What kind of activities do bedfast residents engage in? Ask Resident: - Have you ever had difficulty in having private visits? Give examples.	- Needs of the resident in the following areas are identified: + social interaction + creative expression + work and service opportunities + intellectual stimulation or activities adaptation + physical exercise + spiritual or religious expression - Plan of care - Used all available information about: + interests + needs + indications and contraindications for activities from other assessments + physician orders and progress notes	Does each resident's activities promote his physical, social and mental well-being?	Physical Environment 405.1134 442.329 Infection Control 405.1135 442.328 Resident Rights 405.1121(k) 405.311 Medical Records 405.1132 405.318 Patient Care Management 405.1124(d) 442.341
F243 2. Unless contraindicated by the attending physician, all residents are encouraged to participate in activities.					
F244 3. The activities promote the physical, social and mental well-being of the residents.					

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F245 4. Equipment is maintained in good working order.	Is lighting adequate throughout the facility for activities in which residents are engaged?	Ask Nursing/Activity Staff - Do they know the interests of residents under their care? TV programs they like? Activities they want to participate in today/this week?	Activities notes spell out implementation of plan, resident's reactions to specific activities, approaches, and people.	Are equipment and supplies to meet residents' interests available and maintained in good working order?	
F246 5. Supplies and equipment for activities of interest are available.	Do men and women have activities of interest to them?	- Do they know the personal equipment needed (e.g., glasses, hearing aids, reader)? - Do they know the adaptive equipment used by residents for specific activities (e.g., talking books, built up tools)?	Residents' participation in individual and group self-started and organized structured and unstructured activities timespent.	Are residents evaluated periodically with emphasis on participation levels and desire for new activities?	
INTENI Each resident has individual and/or group activities to meet activities needs through his interests daily.	Are methods of communicating upcoming activities appropriate to the resident populations? Specific observation for physically impaired/alert residents: Activities adapted to meet specific needs of the resident. Alert residents have activities of interest and at their cognitive functional level. Specific observations for confused/disoriented, emotionally disturbed and mentally retarded residents: There are current calendars, clocks and patients	- Do they talk to residents to identify new interests and report these and "dislikes" to activities personnel? How? - What is staff's involvement with individual and group activities of residents in their care? - How do they determine interests of residents who have difficulty communicating? - What activities does resident participate in regularly? Which activities does he/she enjoy most/least?	Evaluation of plan of care for: changes in interests; changes in precautions, problems, approaches, etc. Plans are revised as needed.	Are plans readjusted if they do not reach desired outcomes? Residents in the facility more than 60 days should have at least two activities per week of interest to them personally.	

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F246 (cont'd)	and patients names or symbols visible to all the residents. Staff consistently use techniques such as reality orientation, empathy, and/or validation therapy as per each individual's needs. Resident has familiar items if available in room (e.g., family pictures, artwork, afghan, chair from home). Residents in restraints have activities of interest geared to their abilities when restrained (e.g., table-top activity, music, radio, reading and writing material; when out of restraints (e.g., walks, exercise group, toileting). Small group and one-on-one involvement with staff reinforcing appropriate responses. Staff reaction to resident behavior during activities (e.g., crying, whining, demanding, non-verbal, aggression,	- If he/she does not participate, why? - Which activities appear to relax/calme the resident? Excite him/her? - How does staff manage maladaptive behavior (e.g., abusive, disruptive, combative)? - Is direct care staff involved in resident activities? How? When (weekends, evenings)? - Does resident have one-to-one assistance in activities? - How many residents have activities a day of interest to them as individuals? - Why do these residents have so little interest? - What is your plan to find more activities of interest to them that will meet their needs? - What types of residents seem not to be interested in activities? - How many (who) residents have only passive activities?			

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F 246 (cont'd.)	Loudness). <u>Specific observation for comatose or terminally ill resident:</u> - Appropriate items for sensory enrichment in room (e.g., TV, radio, adequate lighting) - Resident placed in supportive living environment (e.g., around people, in hall, activities room, sunshine, fresh air), when appropriate to the resident needs and consistent with the resident's choice. <u>Specific observation of environment for conducting activity program:</u> - Adequate lighting. - Functional area is appropriate for activities of interest (e.g., religious services, arts and crafts, cooking, reading, TV watching, card playing, parties, discussion groups, gardening).	- How do you adapt activities for needs of residents who are: - confused/disoriented - emotionally disturbed - mentally retarded - physically impaired but alert - terminally ill? - Are community volunteers utilized in the activities program? In what way? - Are the residents encouraged to offer suggestions for new activities? If so, what activities have been instituted as a result? - How they manage maladaptive behavior (e.g., abusive, disruptive, combative)? - How do they help depressed residents (e.g., tearful, emotionally labile)?		Resident may refuse to participate in activity. However if the activities are part of a diagnostic or therapeutic program, the resident is responsible for assisting in the selection of mutually acceptable alternative activities.	

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F246 (cont'd)	- Multi-purpose room use and timing of activities does not conflict. - Outdoor activity area. - Functional furniture, indoors and outdoors. - Evidence of free choice activities: - newspapers - magazines - record player - radios - games - TV's - reading - sewing - personal visits - church services - Activities, equipment and supplies are appropriate and sufficient to meet interest of residents. - Activities equipment and supplies sufficient for conducting activities. - Activities equipment clean, safe, and in working order. - Residents rooms contain independent project materials, as appropriate. - Residents have access to the total activity environment (e.g., lobby, sunroom, day-room, porch, dining room).				

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
MEDICAL RECORDS					
F247 SNF 405.1132					
Content					
F248 SNF 405.1132(c)					
F249 ICF 442.318(a)(c)					
F250 1. The medical record contains sufficient information to identify the resident clearly to justify diagnoses and treatment and to document results accurately.				All information required is present in the record. Does the record document all observable resident needs/problems?	
F251 2. The medical record contains the following information.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F251 (cont'd) a. Identification information.					
F252 b. Admission data including past medical social history.					
F253 c. Transfer form, discharge summary from any transferring facility.					
F254 d. Report of resident's attending physician.					
F255 e. Report of physical examinations.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F256 f. Reports of physicians' periodic evaluations and progress notes.					
F257 g. Diagnostic reports and therapeutic orders.					
F258 h. Reports of treatments.					
F259 i. Medications administered.					
F260 j. An overall plan of care setting forth goals to be accomplished through each service's designated activities, therapies and treatments.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F261 k. Assessments and goals of each service's plan of care.					
F262 l. Treatments and services rendered.					
F263 m. Progress notes.					
F264 n. All symptoms and other indications of illness or injury including date, time and action taken regarding each problem.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F264 (cont'd) INTELT Brings together all resident information. Reflects the care being given to the residents and helps all care givers to make decisions on care needed.					
TRANSFER AGREEMENT					
F265 SNF 405.1133		Ask Staff: - What is the routine information you provide to a new facility when you transfer a resident? - Who provides this?	Review information on medical record of resident who was temporarily transferred and is again back in the facility. Look at physician and nursing progress notes of above residents to determine if the timeliness of transfer was consistent with accepted standards of care.	All pertinent resident information must be documented on the medical record at the time of transfer. The resident was not injured in any way by a delay in the transfer process.	Patient Rights 404.1121(k) 442.311
F266 SNF 405.1133(a)					
F267 ICF 442.316					
F268 A. Whenever the physician determines that a transfer is medically appropriate between a			Does facility have an agreement with a hospital? Not required if hospital under same ownership, direction and in same campus.		

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F 268 (cont'd) hospital or a facility providing more specialized care and the nursing facility, admission to the new facility shall be effected in a timely manner.			Is transfer form complete with all data, with appropriate signatures? Does the medical record indicate that adequate and pertinent aspects of the discharge planning portion of the patient care plan accompany the patient on transfer?		
F269 B. Information necessary for providing care and treatment to transferred individuals is provided.					
PHYSICAL ENVIRONMENT					
F270 SNF 405.1134					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F271 A. Nursing Unit SNF 405.1134(d)					Nursing Service 405.1124(g) 442.337
F272 1. Unit properly equipped for preparation and storage of drugs and biologicals.	There is adequate light to prepare medications. There is sufficient space to prepare medications for administration in a safe and effective manner. There is sufficient space for storage of medica- tions. Unit dose carts are protected from tampering and theft. Medications are stored in a locked area. Refrigeration facilities are available for medi- cations.	Ask Nursing Staff: - What do you use the med- ication room (area) for? - Where is the handwashing sink? - Do you have enough, con- venient storage area for I.V. fluids and medica- tions needing refrigera- tion. - Where are the keys for the medication room and unit dose carts? - Do you feel you have adequate storage space for supplies and equip- ment? - If no, what problems does that cause? - Does the resident call system function properly? Ask Residents: - Do the call bells in your room and in the toilets and bathing areas always work?		Medication preparation and storage areas provide adequate space and light to prepare medication and to store medication and needed supplies. Light is available when and where the medication cart is in use. A medication refrigerator is available and does not contain patient or employee snacks. Juice, etc., used in adminis- tering medication is allowed. Clean and dirty areas must be separated, pre- ferably in separate rooms. Storage space must be available for bulky items and supplies so that they can be stored without blocking corridors and exits. Medications are protected from unauthorized use. Call bells must be in working order and must be present in all resident bedrooms, toilets and	Infection Control 405.1135 Governing Body 442.325 Resident Rooms 405.1134(e) 442.325
F273 2. Utility and storage rooms are adequate size.					
F274 3. The unit is equipped to register resident calls with a functioning communica- tions system from resident areas includ- ing rooms and toilets and bathing facility.	There is sufficient storage space for I.V. fluids. Handwashing facilities are readily accessible either in the medication preparation area or adja- cent to it.				

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F274 (cont'd)	Audible call system is on and working. Long cords are available for chair bound patients.	- If no: - How often is it that they do not work? - How long does it take to get them fixed?		bathing areas. Audible signals, if in the system, must be in working order and turned on.	
B. Dining and activities area	Area is clean and well maintained.	Ask Residents: - Is there enough room between tables to allow you to feel safe in getting to your table? - Can you sit comfortably in your wheelchair at the table? - How is the lighting and ventilation level for you? - Are sitting preferences permitted? - Do you go to the dining room for meals?		Regulations clearly set out conditions for compliance. Refer to the regulations.	Dietetic Services 405.1125 442.331 Patient Activities 405.1131 442.345
F275 SNF 405.1134(g) F276 ICF 442.329	There is sufficient space between tables to allow for safe passage of wheelchairs and residents with walkers, canes and other assistive devices.				
F277	1. The facility provides one or more clean, orderly, and appropriately furnished rooms of adequate size, designed for resident dining and resident activities.	Table height or design allows residents in wheelchairs to sit a normal distance from the table. Lighting and ventilation in the dining/activity areas is provided according to recommended standards. A multi-purpose room should not be used for storage of items such as beds, mattresses, boxes, etc.			

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F278 2. Dining and activity rooms are well lighted and ventilated.	Are dining areas utilized at meal service?				
F279 3. Any multi-purpose room used for dining and resident activities has sufficient space to accommodate all activities and prevent their interference with each other.					
F280 SNF 405.1134(e) Indicators C&D apply to SNFs					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
C. Resident Rooms F281 ICF 442.325	Observe rooms and furnishings for maintenance, cleanliness and safety. Look for dust/dirt on lights, high surfaces, under heating units, and in corners. Use a flashlight.	Ask Residents: - Is your room kept clean? Who cleans it? When, and how often? - Is your bed, chair, and other furniture and fixtures kept in good repair? - Do you feel you have enough privacy? - What personal belongings are you allowed to have? - Is the lighting in your room sufficient for you? - Is your chair comfortable? - When do you permit staff to clean your room? - When do you ask staff not to clean your room?		Refer to the regulations.	Resident Rights 405.1121(k)(1)(5) (9)(13) 442.311(a)(d)(2) (g)(1)(2) (6)(k) Physical Environment 405.1134(d)(e) 442.326
F282 1. Single rooms have at least 100 sq. ft.	Are beds, lights, plumbing all in working order?				
F283 2. Multiple resident rooms have no more than 4 residents and at least 80 sq. feet per resident.	Observe for all regulatory requirements as noted to the left. Are privacy curtains present, and appropriate to maintain resident privacy? Test several call lights.				
F284 3. Each room is equipped with or conveniently located near toilet and bathing facilities.	Are call lights within reach, including emergency lights in toilets and bathing areas? Are toilet and bathing facilities appropriate in number, size, and design to meet resident needs? What personal belongings do residents have in their rooms? Is there				

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F285 4. There is a capability of maintaining privacy in each.	sufficient storage and security for their belongings?				
F286 5. There is adequate storage space for each resident.					
F287 6. There is a comfortable and functioning bed and chair, plus a functional cabinet and light.					

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F288 7. The resident call system functions in resident rooms.					
F289 8. Each room is designed and equipped for adequate nursing care and the comfort and privacy of residents.					
F290 9. Each room is at or above grade level.					
F291 10. Each room has direct access to a corridor and outside exposure.					
Exception: Not required for ICF residents.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
D. Toilet and bath facilities F292 ICF 442.326 F293 1. Facilities are clean, sanitary and free of odors.	Are there adequate numbers of toilets, baths, and showers for the residents that are accessible to, and functional for all residents? Are these conveniently located in or near resident rooms? Check for water on floors of bath and shower rooms. Is privacy provided? Are facilities clean, sanitary and free of unpleasant odors?	Ask Residents: - When was your last bath? The one before? - What safety precautions are used for getting in and out of the bathtub? - What equipment is needed to get in and out of the tub, and how do you feel about it? - How do you get your wheelchair into the toilet or bathroom? - When, if ever, do you refuse to be bathed?	Bathing schedule for patients in your in-depth review.	Privacy is maintained for residents in toilet and bathing areas. Toilet and bathing areas are clean. Water is removed from floors immediately upon completion of bathing. Hot water is within the acceptable temperature range. Soap, toilet paper and towels are available in the bathrooms. Grab bars are present and securely fastened to the wall. Ventilation and lighting systems are correctly functioning. Plumbing and other fixtures are in good condition.	
F294 2. Facilities have safe and comfortable hot water temperatures.					
F295 3. Facilities maintain privacy.	Are bathrooms equipped with soap, toilet tissue, towels, etc.? Hot water is between 110-120 degrees or the acceptable State level. Hot water temperature control must be maintained. Single use, disposable towels should be available for handwashing purposes. Note also condition of grab bars, plumbing and fixtures. Bath areas are not used for storage.				
F296 4. Facilities have grab bars and other safe guards against slipping.					

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F297 5. Facilities have fixtures in good condition.					
F298 6. The resident call system functions in toilet and bath facilities.					
E. Social Service Area					
F299 SNF 405.1130(b) ICF 442.344	Does the social worker have a locked file available? Where are social service interviews and clerical functions performed?	Ask Resident: - Does the social worker see you in a private room or in your own room? - If in your own room, do you feel that you have enough privacy?	Facility has appropriate arrangements for providing social services, either using: - outside resources (contract or consultant services) - qualified facility personnel under a clearly defined plan.	Refer to regulations.	
F300 1. Ensures privacy for social service interview viewing.	Are rooms in areas easily accessible to residents?				
F301 2. Adequate space for clerical and interviewing functions is provided.					
F302 3. Facilities are easily accessible to residents and staff.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F. Therapy areas	Therapy areas are accessible to all residents needing the facilities.	Ask Resident: - Do you feel that the equipment you use is safe? - Do you have enough room for your treatment?	Refer to regulations.		
F303 SNF 405.1126(a)	Space allows for safe maneuvering of residents and equipment and staff.				
F304 ICF 442.328(a)	All residents are able to be observed and supervised during therapy.	Ask Therapy Staff: - Is your equipment adequately maintained? - Do you have enough room to safely and adequately provide treatment?			
F305 1. Space is adequate for proper use of equipment by all residents receiving treatment	Equipment has labels (stickers, etc.) to indicate proper maintenance. All equipment fastened to floor and walls is secure.				
G. Facilities for Special care	Are therapy areas properly ventilated to effectively reduce heat, moisture and odors?	Ask Supervisory personnel: - What room(s) do you use for isolation? - What is your procedure if the room is already occupied when you need it for isolation? - Will you show me the signs you use to identify the isolation room?		Rooms meeting the regulatory requirements are available in the facility. There is a procedure that is implemented when an isolation is needed, but it is already occupied. Isolation signs are visible and clearly convey their intended message.	Resident Rights 405.1121(k)(4) 442.311(c)(2) Infection Control 405.1135(b)
F307 SNF 405.1134(f)	Are private rooms available that meet regulatory criteria.				
F308 ICF 442.328(b)	If a resident is infected and in isolation, are precautionary signs posted, and are they legible and understandable?				

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F309 1. Single rooms with private toilet and handwashing facilities are available for isolating residents.					
F310 2. Precautionary signs are used to identify these rooms when in use.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
H. Common Resident Areas	Use senses - sight, hearing, olfactory when surveying common areas as lounges, lobby, corridors.	Ask Residents: - Do you think that the lounges and corridors are usually clean? - Do they have any unpleasant odors? - Is the lighting level comfortable for you to read? Is it adequate for you to feel safe walking? - Do you have any difficulty with the noise level? - Is the temperature usually comfortable for you? - Do you feel there is adequate ventilation? - Are there handrails in all of the corridors? - Are they securely fastened to the wall?		- Floors and furniture should appear clean - free of gross contamination. - Residents should have lighting bright enough to safely negotiate corridors, lounges, etc., and in reading area, be bright enough to read. But the brightness should be free of glare. Remember, the elderly need a higher level of lighting as their sight diminishes. - Except for times when a louder level of sound is necessary for communication, sounds should be unobtrusive and "comfortable". - Room temperature comfort levels vary widely, and in general the elderly will require a higher temperature for comfort than younger people. Use information from resident interviews and your observations to determine if the temperature is "comfortable" for most residents. - All corridors in	Infection Control 405.1135(c)
F311 SNF 405.1134(j)	Note levels of lighting for both reading and non-reading areas. Is it bright enough but without glare?				
F312 ICF 442.324	Are areas clean and without offensive odors? Do background sound levels allow for ease of communication and comfort for residents/visitors? Do residents seem comfortable with the room temperature - note the use of several layers of clothing, many residents fanning themselves, etc. Are handrails on each side of the corridor and are they secure? Are smoking/no smoking areas designated?	Ask Supervisory Staff: - If there is a water main break or other interruption in the water supply, how do you obtain water for essential areas and duties?			
F313	1. All common areas are clean, sanitary and free of odors.				
F314	2. Provision is made for adequate and comfortable lighting levels in all areas.				
F315	3. There is limitation of sounds at comfort levels.				

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F316 4. A comfortable room temperature is maintained.				resident-used areas are equipped with handrails on each side. These rails securely fastened provide the residents with a firm support. - Supervisory staff are able to tell you how they will obtain water for drinking, cleaning/bathing of residents, and other essential functions if their normal water supply is interrupted.	
F317 5. There is adequate ventilation thru windows or mechanical measures or a combination of both.					
F318 6. Corridors are equipped with firmly secured handrails on each side.					
F319 7. Staff are aware of procedures to ensure water to all essential areas in the event of loss of normal supply.					Disaster Preparedness 405.1136 442.313

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
I. Maintenance of Building and Equipment F320 SNF 405.1134(i)	- Ceiling and floor tile in good condition - Paint in good repair - No holes in walls - Look for rat and other rodent trails outside and inside - Preventive maintenance program for all equipment is followed - Wheelchairs not stored in hallways, bathrooms, etc. - Window screens are in good repair - Check overbed tables, wheelchairs, etc., for cleanliness and operation	Ask Staff: - How many housekeeping staff are available? - How late are housekeepers on duty during the week? - How is weekend coverage different? Ask Resident: - What if any problems have you had with special equipment you need to use?			Physical Environment 405.1134(d)
F321 1. The interior and exterior of the building are cleaning and orderly.					
F322 2. All essential mechanical and electrical equipment is maintained in safe operating condition.					
F323 3. Sufficient storage space is available and used for equipment to ensure that the facility is orderly and safe.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F324 4. Resident care equipment is clean and maintained in safe operating condition.					

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SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Indicator J applies to ICFs. J. Dietetic Service Area F326 SNF 405.1134(h)	Observe for - needed space to carry out routine operations - maintenance of working surfaces equipment, utensils, and serving dishes - operable dish washer machine. - 3-sink method of pot/ dish washing properly carried out/or written procedure posted - operable and clean exhaust fan - stored dishes and pots are free of baked-on food particles and chipped/cracked sur- faces - food stored off floor - protective covers for fluorescent lights - handwashing sink read- ily accessible	Ask Staff: - What have you been trained to do? - What type of dishwasher machine do you have? How does it operate?	The proper temperature for the Dishwasher wash cycle is 150-160 degrees Fahren- heit. The dishwasher rinse cycle is acceptable at temperature of 180 degrees Fahrenheit or when there is a change in the temperature-sensitive tape (thermolabel). The indi- vidual manufacturers' specifications may countermand these instruc- tions, particularly in the case of chemical saniti- zation.		Dietetic Services 405.1125(g) 442.331(b)
F327 1. Kitchen and dietetic ser- vice areas are adequate to insure proper, timely ser- vice for all patients.					
F328 2. Kitchen areas are properly ventilated, arranged, and equipped for storage and preparation of food as well as for dish and utensil cleaning, and refuse stor- age and removal.					

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Indicator K applies to ICF K. Dietary Staff Hygiene F329 SNF 405.1125(f)	Observe the following: - cleanliness of hands, fingernails, hair, clothing - use of hair restraint - whether employees wash hands with soap and water after using the toilet, smoking, blowing their nose, touching raw meat, poultry or eggs - employees using hands to mix food when utensils could be used - employees using the same spoon more than once for tasting food while preparing, cooking, or serving. Verify that: - hot foods are 140 degrees or above - cold foods are 45 degrees or lower - ("note: food held for more than 2-3 hours between 60 and 125 degrees may not be safe to eat) - cooked meats held longer than 72 hours are used, discarded or put in the freezer	Ask Staff: - What happens when you report to work with a cold, a cut or sore on your hand? - Where is handwashing sink for dietary staff? - Do you use disposable plastic hand covers? - If so, when? - Where are your serving utensils located? - What are temperatures for the refrigerators and freezers? Who is responsible for checking temperatures? - Do you have thermometers to check water and food temperatures? (ask them to demonstrate how they take temperatures)			Dietetic Services 405.1125(e)(f)(g)
F330 1. Dietetic service personnel practice hygienic food handling techniques. Indicator L applies to ICF L. Dietary Sanitary Conditions F331 SNF 405.1125(g)	1. Food is stored, refrigerated, prepared, distributed, and served under sanitary conditions.				
F333 2. Waste is disposed of properly.					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F333 (cont'd)	- check that the refrigerators are equipped with an accurate thermometer - food does not have an "off" or bad odor - cracked eggs are discarded - foods are dated and then stored as to their preparation date. Observe that waste is in covered containers, bagged and tied for disposal, and that dumpsters are covered.				

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
L. Emergency Power F334 SNF 405.1134(b)	Is an emergency generator available? Test generator under full load conditions.			As per regulations and covered by the Life Safety Code surveyor	
F335 1. An emergency source of electrical power necessary to protect the health and safety of residents is available	Check items of emergency power: - lighting - fire detection - alarms - extinguishing systems - life support systems Transfer time from normal power to emergency power to occur within 10 seconds.				
F336 2. Emergency power is adequate at least for lighting in all means of egress; equipment to maintain fire detection, alarm, and extinguishing systems; and life support systems	Check for grounded extension cords at nurses stations. Where are emergency outlets?				

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F337 3. Emergency power is provided by an emergency generator located on the premises where life support systems are used.					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
Infection Control F338 SNF 405.1135	- Observation of dressing technique to identify if infection control principles are being adhered to: - sterile technique - sterile/clean field - disposal of dressing - handwashing - use of gloves - Observation of isolation precautions: - signs - linen, double bagged - soiled linen, double bagged - gowns/masks - gloves - handwashing - disposable dishes - information for visitors	Ask Staff: - What type of dressing changes are you performing? - How often are dressings changed? - Why is resident on isolation/precautions? - Do laundry/housekeeping personnel/aides know procedures? Ask Resident: - Do you know why you have dressings? - Do you know why you are on isolation/precautions? - Do you have clean linen when you need it?	Review records of residents selected for indepth review for infection.	Compliance will be based mainly on your observations. Deficiencies will be cited if you see: - breaks in aseptic or isolation technique - clutter or unclean conditions that would cause unsafe conditions - inadequate supplies of linen to provide proper care and comfort for residents - inadequate techniques for handling clean and dirty linen - evidence of insect or rodent infestation - use flash light to check for roaches in closets, cabinets.	Nursing Services- 405.1124 442.338
A. Infection Control F339 SNF 405.1135(b)					
F340 Aseptic and isolation techniques are followed by all personnel.					
B. Sanitation F341 SNF 405.1135(c)					
F342 The facility maintains a safe, clean, and orderly interior.	- Procedures followed by: - Laundry - Housekeeping - How is dirty linen transported to laundry or holding area? - Do aides wash hands after cleaning dirty linen? - How do aides handle clean/dirty linen while changing beds?				
C. Linen F343 SNF 405.1135(d)					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F344 ICF 442.327					
F345 1. The facility has available at all times a quantity of linen essential for proper care and comfort of residents.					
F346 2. Linens are handled: stored, processed, and transported in such a manner as to prevent the spread of infection.					
D. Pest Control F347 SNF 405.1135(e)	Look for evidence of insect or rodent presence (mouse or rat droppings, roaches, ants, flies around trash) - Screen doors closed - Windows that can be opened have screens that are in good repair	Ask Staff: - Have you seen insects (roaches, ants, flies, etc.)? - Have you seen rodents and/or droppings? - What foods are residents permitted to keep in their rooms?			
F348 ICF 442.315(c)					
F349 The facility is maintained free from insects and rodents.					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
DISASTER PREPAREDNESS F350 SNF 405.1136 F351 SNF 405.1136(a) F352 ICF 442.313	- Disaster plan is located at each nursing station. - Evacuation plans posted in each smoke compartment.	Ask Residents: - Do you know what to do in case of fire? - How often do you rehearse it? Ask Staff: - What are your responsibilities at a fire drill? - What is the facilities disaster plan? (Specify types, [(e.g., fire, flood, etc.)]) - How you undergone disaster training? - Have you participated in a fire disaster drill? When? - How frequently are drills held? - Have you been trained/instructed in the use of fire equipment, fire containment methods? - Have you been trained in transfer or casualties and routes? - How would staff meet emotional needs of residents during/following a "disaster", e.g., fire		A disaster plan is available and facility staff know their roles.	Physical Environment 405.1134(a)(b) 442.321
Indicators A and B apply to ICfs. A. Disaster Plan F353 1. Facility staff are aware of plans, procedures to be followed for fire, explosion or other disaster.					
F354 2. Facility staff are knowledgeable about evacuation routes.					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F355 3. Facility staff are aware of their specific responsibilities in regard to evaluation and protection of residents.					
F356 4. Facility staff are aware of methods of containing fire.					
B. Drills F357 SNF 405.1136(b)					
F358 1. All employees are trained as part of their employment orientation in all aspects of preparedness for any disaster					

LONG TERM CARE SURVEY

SURVEY AREA	OBSERVATION	INTERVIEWING	RECORD REVIEW	EVALUATION FACTORS	CROSS REFERENCE
F359 2. Facility staff participate in ongoing training and drills in all procedures so that each employee promptly and correctly carries out a specific role in case of a disaster. INTENT To ensure a clean, safe environment for residents.					

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PART 488—[AMENDED]

B. 1. Part 488 is amended by redesignating the sections listed below from Subpart S of Part 405 of this chapter into the indicated subparts and sections:

<i>Old sec. Subpart S</i>	<i>New sec. Subpart A</i>
405.1903.....	488.18
405.1904.....	488.20
405.1905.....	488.24
405.1906.....	488.26
405.1907.....	488.28

<i>Old sec. Subpart B</i>	<i>New sec. Subpart B</i>
405.1908.....	488.50
405.1909.....	488.52
405.1910.....	488.54
405.1911.....	488.56
405.1912.....	488.60
405.1913.....	488.64

§ 488.56 [Amended]

2. The title of newly redesignated § 488.56 is revised to read: "Temporary waivers applicable to skilled nursing facilities."

§ 488.60 [Amended]

3. The title of newly redesignated § 488.60 is revised to read: "Special procedures for approving end stage renal disease facilities."

C. Section 488.26 is revised to read as follows:

§ 488.26 Determining compliance.

(a) The decision as to whether there is compliance with a particular condition of participation or conditions for coverage will depend upon the manner and degree to which the provider or supplier satisfies the various standards within each condition. Evaluation of a provider's performance against these standards will enable the State survey agency to document the nature and extent of deficiencies, if any, with respect to a particular function, and to assess the need for improvement in relation to the prescribed conditions.

(b) The State agency must adhere to the following principles in determining compliance with participation requirements:

(1) The survey process is the means to assess compliance with Federal health, safety and quality standards;

(2) The survey process uses resident outcomes as the primary means to establish the compliance status of facilities. Specifically surveyors will directly observe the actual provision of care and services to residents, and the

effects of that care, to assess whether the care provided meets the needs of individual residents;

(3) Surveyors are professionals who use their judgment, in concert with Federal forms and procedures, to determine compliance;

(4) Federal procedures are used by all surveyors to ensure uniform and consistent application and interpretation of Federal requirements;

(5) Federal forms are used by all surveyors to ensure proper recording of findings and to document the basis for the findings.

(c) The State survey agency must use the survey methods, procedures, and forms that are prescribed by HCFA.

(d) The survey agency must ensure that a facility's actual provision of care and services to residents and the effects of that care on residents are assessed in a systematic manner.

(e) A SNF survey must include the following elements:

(1) An entrance conference;

(2) A resident-centered tour of the facility;

(3) An in-depth review of a sample of residents, including observation, interview and record review;

(4) Observation of the preparation and administration of drugs for a sample of residents;

(5) Evaluation of a facility's meals, dining areas and eating assistance procedures;

(6) A description in the survey report of all deficiencies found during the survey;

(7) An exit conference; and

(8) Follow-up surveys, as appropriate.

D. Technical Amendments to Part 488:

1. In redesignated § 488.18:

a. In paragraph (a), "§ 488.28 of this part" is substituted for "§ 405.1907";

b. In paragraph (b), "§ 488.54 of this part" is substituted for "§ 405.1910".

2. In redesignated § 488.20, in paragraph (a), "§ 488.50 of this part" is substituted for "§ 405.1908".

3. In redesignated § 488.28, in paragraph (a), "§ 488.50 of this part" is substituted for "§ 405.1908".

4. In redesignated § 488.50:

a. In paragraph (a) introductory text, "Subpart K of Part 405," is substituted for "Subpart K of this part,".

b. In paragraph (a)(1), "§§ 489.15(d) and 489.16 of this chapter" is substituted for "§ 405.604(b)".

c. In paragraph (b), "§ 488.20(b) of this part" is substituted for "§ 405.1904(b)".

d. In paragraph (c), "§§ 489.15(d) and 489.16 of this chapter" is substituted for "§ 405.604(c)".

5. In redesignated § 488.52:

a. In paragraph (a), "§ 405.1311(a) of this chapter" is substituted for

"§ 405.1311(a)"; "Subparts A, B and C of this part" is substituted for "Subpart S"; "§ 405.1311(b) of this chapter" is substituted for "§ 405.1311(b)"; "§ 405.1311(f) of this chapter" is substituted for "§ 405.1311(f)".

b. In paragraph (b), "Subpart M of Part 405" is substituted for "Subpart M"; "§ 405.1312(b)(4) of this chapter" is substituted for "§ 405.1312(b)(4)".

c. In paragraph (c), "§ 405.1311(c) of this chapter" is substituted for "§ 405.1311(c)".

d. In paragraph (d), "§ 488.28 of this part" is substituted for "§ 405.1907".

6. In redesignated § 488.56:

a. In paragraph (a), "§ 405.1124 of this chapter" is substituted for "§ 405.1124"; and

b. In paragraph (b), "§ 405.1122 of this chapter" is substituted for "§ 405.1122".

7. In redesignated § 488.60:

a. "Subpart U of Part 405" is substituted for "Subpart U of this part" wherever the term occurs.

b. In paragraph (a), "§ 488.12 of this part" is substituted for "§ 405.1902";

c. "§ 405.2122(b) of this chapter" is substituted for "§ 405.2122(b)" wherever the term occurs; and

d. In paragraph (f), "§ 405.2100(c) of this chapter" is substituted for "§ 405.2100(c)".

8. In redesignated § 488.64, "§ 405.1137(d) of this chapter" is substituted for "§ 405.1137(d)" wherever the term occurs.

E. Part 405 is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED**SUBCHAPTER B—MEDICARE PROGRAMS**

1. In Subchapter B, the table of contents of Part 405 is amended by removing and reserving Subpart S as follows:

Subpart S [Reserved]**Subpart S [Removed and reserved]**

2. In Part 405, Subpart S, §§ 405.1901 and 405.1902 are removed and the subpart is removed and reserved.

F. In Subchapter C, Part 442 is amended as follows:

SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAMS**PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES**

1. The authority citation for Part 442 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. In Subpart B, § 442.30 is amended by revising the introductory text of paragraph (a), revising paragraph (a)(4), redesignating existing paragraph (a)(5) as paragraph (a)(8) and revising it, and adding new paragraphs (a)(5), (a)(6) and (a)(7) to read as follows:

§ 442.30 Agreement as evidence of certification.

(a) Under §§ 440.40(a) and 440.150 of this chapter, FFP is available in expenditures for SNF and ICF service only if the facility has been certified as meeting the requirements for Medicaid participation, as evidenced by a provider agreement executed under this part. As agreement is not valid evidence that a facility has met those requirements if HCFA determines that—

(4) The survey agency failed to use the Federal standards, and the forms, methods and procedures prescribed by HCFA as required under § 431.610(f)(1) of this chapter, for determining the qualifications of providers; or

(5) The survey agency failed to adhere to the following principles in determining compliance:

(i) The survey process is the means to assess compliance with Federal health, safety and quality standards;

(ii) The survey process uses resident outcomes as the primary means to establish the compliance status of facilities. Specifically, surveyors will directly observe the actual provision of care and services to residents, and the effects of that care, to assess whether the care provided meets the needs of individual residents;

(iii) Surveyors are professionals who use their judgment, in concert with Federal forms and procedures, to determine compliance;

(iv) Federal procedures are used by all surveyors to ensure uniform and consistent application and interpretation of Federal requirements;

(v) Federal forms are used by all surveyors to ensure proper recording of findings and to document the basis for the findings.

(6) The survey agency failed to assess in a systematic manner a facility's actual provision of care and services to residents and effects of that care on residents.

(7) Required elements of the SNF or ICF survey process include all of the following:

(i) An entrance conference;

(ii) A resident-centered tour of facility;

(iii) An in-depth review of a sample of residents including observation, interview and record review;

(iv) Observation of the preparation and administration of drugs for a sample of residents;

(v) Evaluation of a facility's meals, dining areas and eating assistance procedures;

(vi) Formulation of a deficiency statement based on the incorporation of all appropriate findings onto the survey report form;

(vii) An exit conference; and

(viii) Follow-up surveys as appropriate.

(8) The agreement's terms and conditions do not meet the requirements of this subpart.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance)

Dated: May 31, 1988.

William L. Roper,
Administrator, Health Care Financing Administration.

Approved: June 2, 1988.

Otis R. Bowen,
Secretary.

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