

proposing to amend 38 CFR 21.5732 to provide that when VA does not provide notice of regulatory time limits which must be met when submitting evidence to perfect a claim under the Educational Assistance Test Program, or to challenge an adverse VA decision regarding benefits payable under that program, the time limits will be extended.

The Department of Veterans Affairs and the Department of Defense have determined that this amended regulation does not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The regulation will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs and the Secretary of Defense have certified that this amended regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612 Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

There is no Catalog of Federal Domestic Assistance number for the program affected by this regulation.

List of Subjects in 38 CFR Part 21

Civil Rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 3, 1990.

Edward J. Derwinski,
Secretary of Veterans Affairs.

Approved: June 25, 1990.

Donald W. Jones,
Lieutenant General, USA, Deputy Assistant Secretary, (Military Manpower & Personnel Policy).

38 CFR part 21, Vocational Rehabilitation and Education, is proposed to be amended as follows:

PART 21—[AMENDED]

In § 21.5732, paragraph (c) is revised to read as follows:

§ 21.5732 Time Limits.

* * * * *

(c) *Failure to furnish claim or notice of time limit.* (1) VA's failure to furnish any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the periods allowed for these actions.

(2) VA's failure to furnish an individual notice of the time limit within which evidence must be submitted to perfect a claim, or notice of the time limit within which to challenge an adverse VA decision shall extend the time limit for such action in accordance with the provisions of § 3.110.

(Authority: 38 U.S.C. 3001, 30130)

[FR Doc. 90-17939 Filed 7-31-90; 8:45 am]

BILLING CODE 3320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 160

[PP 1E2509 and 5E3257/P516; FRL-3772-8]

Pesticide Tolerances for Oxytetracycline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the pesticide oxytetracycline in or on the raw agricultural commodities cherries and tomatoes. The proposed regulation to establish maximum permissible levels for residues of oxytetracycline in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 1E2509 and 5E3257/P516], must be received on or before August 31, 1990.

ADDRESSES: By mail, submit written comments to: Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as

"Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H-7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4, (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 1E2509 and 5E3257 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the named Agricultural Experiment Stations. The petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of oxytetracycline in or on certain raw agricultural commodities as follows:

1. *PP 1E2509.* Petition submitted on behalf of the California Agricultural Experiment Station proposed a tolerance for residues in or on cherries at 0.1 part per million (ppm).

2. *PP 5E3257.* Petition submitted on behalf of the Agricultural Experiment Stations of Florida, Michigan, and New Jersey proposed a tolerance for residues in or on tomatoes at 0.1 ppm.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include:

1. A 2-year chronic feeding study in Osborne-Mendel rats with a no-observed-effect level (NOEL) of 3,000 ppm, approximately 150 milligrams (mg)/kilogram (kg)/day (highest dose tested).

2. A 2-year chronic feeding study in Sprague Dawley rats with a NOEL of

1,000 ppm, approximately 50 mg/kg/day (highest dose tested).

3. A 2-year chronic feeding study in dogs with a NOEL of 10,000 ppm, approximately 250 mg/kg/day (highest dose tested).

4. A mouse teratology study with a NOEL for maternal and developmental toxicity at 2,100 mg/kg (highest dose tested).

5. A study in dogs to evaluate antimicrobial resistance to oxytetracycline with a NOEL of 2 ppm (approximately 0.05 mg/kg/day). Mature dogs were fed a diet containing 0, 2, and 10 ppm (approximately 0, 0.05, 0.25 mg/kg/day) of oxytetracycline for 44 days. A change resulted in the high-dose level (10 ppm) group from a predominately drug-susceptible population of enteric lactose-fermenting organisms to a multiple antibiotic-resistant population.

The results of oncogenicity studies in rats, which were fed oxytetracycline at dosages of 0, 25,000, and 50,000 ppm (approximately 0, 1,250, and 2,500 mg/kg/day) for 103 weeks, and in mice, which were fed 0, 6,300, and 12,500 ppm (0, 945, and 1,875 mg/kg/day) for 103 weeks, were reported by the National Toxicology Program (NTP). NTP's Peer Review Committee concluded that there was equivocal evidence of carcinogenicity in rats as indicated by an increased incidence of pheochromocytomas of the adrenal gland in male rats and an increased incidence of adenomas of the pituitary gland in the high-dose group of female rats. No evidence of carcinogenic effects in the mouse study were observed.

In December of 1988, EPA completed a review of the available data for oxytetracycline in association with a Registration Standard and concluded that there is no positive evidence of carcinogenic effects in either the mouse or the rat study. No additional toxicology data were required to evaluate tolerances for oxytetracycline due to the volume of information available relating to its use as an antibiotic in humans.

Oxytetracycline has been used extensively as a human and animal drug for control of microbial-related diseases. The oral dose for adults ranges from 1 to 2 grams per day. Although a number of adverse effects resulting from the use of oxytetracycline as a human drug have been identified in susceptible humans, these effects are usually seen only after prolonged exposure at relatively high dosages. The pesticide uses of oxytetracycline result in substantially

less exposure than the oral or intravenous routes of exposure for the drug uses. The Agency does not believe that the adverse effects observed from the drug use of oxytetracycline are likely to result from the pesticide uses.

The reference dose (RfD) is established at 1.0 mg/kg/day based on an estimated NOEL of 100 mg/kg, which is derived from a comprehensive evaluation of the chronic feeding studies available for oxytetracycline, and a 100-fold uncertainty factor.

The theoretical maximum residue contribution (TMRC) from existing tolerances is 0.000065 mg/kg of body weight/day. The proposed uses would contribute 0.000150 mg/kg of body weight/day. Existing pesticide uses of oxytetracycline and the proposed uses on cherries and tomatoes would utilize less than 0.1 percent of the RfD. The Agency concludes that the amount of the pesticide added to the diet from the proposed uses poses a negligible risk.

The nature of the residues is adequately understood, and an adequate analytical method, microbiological assay, is available for enforcement purposes. The method is similar to the Final Action Microbiological Methods I and II in the AOAC Official Methods of Analysis (1984; 42.293-42.298). There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.337 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 1E2509 and 5E3257/P516]. All written comments filed in response to this petition will be available in the Public Information

Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 11, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.337 is amended by adding and alphabetically inserting tolerances for the raw agricultural commodities, to read as follows:

§ 180.337 Oxytetracycline; tolerances for residues.

* * * * *

Commodities	Parts per million
Cherries.....	0.1
Tomatoes.....	0.1

[FR Doc. 90-17789 Filed 7-31-90; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration 42 CFR Parts 482 and 483

[BPD-650-P]

Medicare/Medicaid Programs; Fire Safety Standards for Hospitals, Long Term Care Facilities, and Intermediate Care Facilities for the Mentally Retarded

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the fire safety standards for hospitals, long term care facilities, and intermediate care facilities for the mentally retarded and would affect only those facilities. It would delete references to the 1967 and 1973 editions of the Life Safety Code of the National Fire Protection Association and require compliance with either the 1981 or 1985 editions depending on the date when the facility was first certified to participate in Medicare or Medicaid. This proposed rule would create a uniform policy for all types of facilities that participate in the Medicare and Medicaid programs. The rescission of the 1967 and 1973 editions of the Life Safety Code is intended to ensure that Medicare and Medicaid beneficiaries and recipients have the benefit of the most current fire protection standards.

DATES: To ensure consideration, comments must be received at the appropriate address, as provided below, no later than 5 p.m. on October 1, 1990.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration,
Department of Health and Human
Services, Attention: BPD-650-P, P.O.
Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey
Building, 200 Independence Avenue,
SW., Washington, DC, or
Room 132 East High Rise Building, 6325
Security Boulevard, Baltimore,
Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code BPD-650-P. Comments will be available as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through

Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 245-7890).

FOR FURTHER INFORMATION CONTACT:
Samuel Kidder, (301) 966-4620.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Life Safety Code of the National Fire Protection Association

Since the beginning of the Medicare and Medicaid programs, we have been concerned with ensuring that health care facilities meet certain health and safety requirements to make certain that patients are safe from fire. The Life Safety Code (LSC) developed by the National Fire Protection Association (NFPA) serves as the basis for governmental fire safety regulations, including those of the Medicare and Medicaid programs. Federal, State, and local governmental authorities have adopted the LSC as the basis for fire safety laws and regulations and have enforced provisions of the LSC.

The LSC is a nationally recognized standard, and includes fire protection requirements necessary to protect patients and residents in health care facilities. It was initially developed in 1913 by the Committee on Safety to Life of the NFPA. The NFPA is a nonprofit organization, established in 1896, for the purpose of reducing loss of life and property due to fire. The types of occupancies addressed by the LSC include health care facilities, residential dwellings, rooming houses, schools, correctional facilities, and commercial establishments.

The LSC is designed to provide a reasonable degree of safety from fire and similar emergencies. The LSC covers construction, fire protection, and occupancy features to minimize danger to life from fire, smoke, and fumes. The code may be applied to both new and existing buildings. The development and maintenance of a body of fire safety codes and standards is one of the NFPA's primary functions. The standards are developed by technical committees that are composed of experts in the fire and building safety field and represent a broad spectrum of interests including fire marshals, architects, engineers, and representatives from private industry and government.

B. Hospitals

Section 1861(e)(9) of the Social Security Act (the Act) requires that, to participate in Medicare, a hospital must meet the health and safety requirements as set forth by the Secretary. Section 1861(e)(9)(C) of the Act allows for a waiver to be granted to a hospital with

respect to fire and safety regulations promulgated under section 1861(e)(9), if specific provisions of the LSC would result in unreasonable hardship, and the safety of patients is not compromised. In addition, the Secretary may accept a facility's compliance with a State's fire and safety code, if imposed by State law, instead of the LSC, if that code adequately protects patients.

The above requirements are set forth in the regulations at 42 CFR part 482, Conditions of Participation for Hospitals. Included in § 482.41 is the requirement that a hospital must meet the applicable provisions of the 1985 edition of the LSC of the NFPA. It further states that any hospital that met the requirements of the 1967 edition of the LSC (with or without waivers), as of November 26, 1982, or met the requirements of the 1981 edition of the LSC as of May 9, 1988, will be considered to be in compliance with the standard as long as the facility has remained in compliance with that edition of the LSC.

C. Long Term Care Facilities

Under section 4204 of the Omnibus Budget Reconciliation Act of 1987, effective October 1, 1990, long term care facilities must meet the provisions of the LSC of the NFPA applicable to nursing facilities in order to participate in the Medicare or Medicaid program. Section 1819(d)(2)(B) of the Act, which applies to skilled nursing facilities participating in Medicare, and section 1919(d)(2)(B) of the Act, which applies to nursing facilities participating in Medicaid requires these facilities to meet the applicable requirements of the LSC. These sections also provide for waivers of LSC requirements if compliance with a specific requirement would result in unreasonable hardship upon the facility, and the waiver will not adversely affect the health and safety of patients. The Secretary may accept a State's fire and safety code, if imposed by State law, instead of the LSC, if that code adequately protects patients in nursing facilities.

The above requirements are set forth at § 483.70. Specifically, the regulations require that a long term care facility meet the applicable provisions of the 1985 LSC. The regulations state that facilities that were in compliance, with or without waivers, with the requirements of the 1967 or 1973 editions of the LSC on November 26, 1982, are considered to be in compliance if they have remained in compliance with those editions of the Code. The regulations also provide that facilities were in compliance with the 1981 LSC on May 9, 1988, are considered in compliance if

they have remained in compliance with that edition of the LSC.

D. Intermediate Care Facilities for the Mentally Retarded

Section 1905(a)(15) of the Act authorizes optional Medicaid coverage for services in intermediate care facilities for the mentally retarded (ICFs/MR). These are facilities that provide health-related care to mentally retarded individuals who do not need the degree of care commonly provided in hospitals or skilled nursing facilities, but who do require care and services above the level of room and board that can only be made available to them through institutional facilities. Under section 1905(d) of the Act, an ICF/MR must meet standards, including safety standards, prescribed by the Secretary.

The above standards are set forth in the regulations at § 483.470. Specifically, the regulations require that an ICF/MR meet the applicable provisions of either the Health Care Occupancies Chapters or the Residential Board and Care Occupancy Chapter of the 1985 LSC. An ICF/MR will be considered in compliance if it met the LSC definition of a health care occupancy and complied with the 1981 edition of the LSC (with or without waivers) as of April 18, 1986, or it complied with the 1967 edition of the LSC as of November 26, 1982, as long as the facility has remained in compliance with those respective editions of the Code.

II. Provisions of the Proposed Regulations

A. General Description

We are proposing to amend §§ 482.41 (hospitals), 483.70 (long term care facilities) and 483.470 (ICFs/MR) to delete reference to the 1967 and 1973 editions of the LSC. We propose no changes in other portions of the regulations, for example, we propose no changes in the waiver provisions. This proposed amendment would conform the fire safety requirements for hospitals, long term care facilities, and ICFs/MR to those for ambulatory surgical centers (ASCs) and hospices. We propose no changes for ASCs (§ 416.44) or hospices (§ 418.100), each of which must currently meet either the 1981 or 1985 edition of the Code.

B. Hospitals; Section 482.41 Condition of Participation; Physical Environment

We are proposing to revise the regulations to delete any reference to the 1967 Code and to require hospitals to meet either the 1981 or 1985 Code, depending on the date when the hospital was first certified to participate in

Medicare or Medicaid. For example, a hospital first certified in 1985 would have been required to meet the 1981 Code, while a hospital first certified in 1989 would have to meet the 1985 Code. We believe that the 1967 Code is an outdated Code that relies heavily on compartmentation, that is, it relies too heavily on stringent construction requirements to divide a building into compartments and theoretically limits the spread of fire and smoke. Current technology relies on early detection and extinguishment, not compartmentation. Moreover, the 1967 Code does not require early notification (direct connection of the fire alarm to the fire department). Finally, the 1967 Code does not encourage sprinklers, since it does not offer the "trade-offs" for having sprinklers found in later editions. "Trade-offs" permit less restrictive fire protection requirements if sprinklers are installed. For example, when a facility has a sprinkler system present, the facility may have longer travel distance to exits.

C. Long Term Care Facilities; Section 483.70 Level A Requirements Physical Environment

We are proposing to amend the long term care regulation to delete all references to the 1967 and 1973 Codes for the reasons listed in B above to require long term care facilities to meet either the 1981 or 1985 Code, depending on the date when the facility was first certified to participate in Medicare or Medicaid. For example, a facility first certified in 1985 would have been required to meet the 1981 Code, while a facility first certified in 1989 would be required to meet the 1985 Code. In addition, the 1981 and 1985 Codes require corridor smoke detection systems in new nursing homes that were not required in earlier editions of the Code.

D. ICF/MR; Section 483.470 Condition of Participation; Physical Environment

We are proposing to amend the ICF/MR regulation to delete the provision permitting certain ICFs/MR to meet the requirements of the 1967 Code for the reasons listed in B above. We note that ICFs/MR subject to the Health Care Occupancies chapters of the LSC are currently required to meet the 1967, 1981 or 1985 edition of the Codes. (Note: The requirement to meet the 1985 Code is included in § 483.470(j)(1)(i), which is not changed by this proposed rule.)

III. Regulatory Impact

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a

regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 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 competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule is not expected to meet the \$100 million criterion nor do we believe that it will meet the other E.O. 12291 criteria for a major rule. Therefore, an initial regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a 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 rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals, long term care facilities, and ICFs/MR to be small entities.

This proposed rule would amend the fire safety standards for hospitals and long term care facilities by deleting references to the 1967 and 1973 editions of the LSC of the NFPA and require compliance with either the 1981 or 1985 editions. In addition, it would amend the ICFs/MR regulation to delete all references to the 1967 edition for these health care entities. ICFs/MR are already required to meet the standards prescribed by the 1981 or 1985 editions.

The 1981 and 1985 LSCs are updates of previous LSCs. We believe that any facility currently in compliance with the 1967 or 1973 LSCs would not have to incur significant expenditures of funds to achieve compliance with either the 1981 or 1985 LSCs.

The major cost factor in the 1985 LSC is the requirement that all newly constructed health care facilities 75 feet or higher must be fully equipped with sprinklers. We are uncertain as to the number of new hospitals and long term care facilities which will be constructed, however, we anticipate the number will be low. We do not believe this requirement would be unduly burdensome.

A minor cost factor would be the direct connection of the fire alarm to the

fire department. We believe this would be a minimal expense. An additional minor cost factor would be the requirement that new nursing homes have corridor smoke detection systems. We do not believe this would be a significant expense since it applies only to new nursing homes and thus these systems can be installed during the construction process.

We believe that the cost factors associated with the 1985 LSC requirements, mentioned above, are justified since meeting those requirements would ensure that Medicare and Medicaid beneficiaries and recipients would have the benefit of the most current fire protection standards.

Section 1861(e)(9), and sections 1819(d)(2)(B) and 1919(d)(2)(B) of the Act provide for waivers of LSC requirements for hospitals and long term care facilities if compliance with a specific requirement would result in unreasonable hardship upon the facility or the waiver will not adversely affect the health and safety of patients. We believe these waivers would lessen the cost impact of this regulation on those hospitals and long term care facilities that qualify for them.

For these reasons, we have determined and the Secretary certifies that this proposed rule would not have a significant effect on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which has fewer than 50 beds and is located outside of a Metropolitan Statistical Area.

To participate in Medicare, section 1861(e)(9) of the Act requires that a hospital must meet the health and safety requirements as set forth by the Secretary. In the last sentence of section 1861(e), clause (C) allows for a waiver to be granted to a rural hospital of 50 beds or fewer with respect to fire and safety regulations promulgated under section 1861(e)(9), if specific provisions of the LSC would result in unreasonable hardship, and the safety of patients is not compromised. The Secretary may accept such a facility's compliance with a State's fire and safety code, if imposed by State law, in lieu of the LSC, if that code adequately protects patients.

Therefore, for the reasons set forth in the preceding paragraph, we are not preparing a rural impact statement since we have determined, and the Secretary certifies that this proposed rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

IV. Information Collection Requirement

This proposed notice does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

V. Responses to Comments

Because of the large number of items of correspondence we normally receive on proposed regulations, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "DATES" section of this proposed rule, and, if we proceed with a final rule, we will respond to the comments in the final rule.

List of Subjects

42 CFR part 482

Grant programs—health, Hospitals, Incorporation by reference, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR part 483

Grant programs—health, Health facilities, Health professions, Health records, Incorporation by reference, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

We are proposing to amend 42 CFR chapter IV as set forth below:

I. Part 482 is amended as follows:

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

Subpart C—Basic Hospital Functions

1. The authority citation for part 482 is revised to read as follows:

Authority: Secs. 1102, 1814(a)(7), 1819(d)(2)(B), 1861(e), (f), (k), (r), (v)(1)(G), and (z), 1864, 1871, 1883, 1886, 1905(a), and 1919(d)(2)(B) of the Social Security Act (42 U.S.C. 1302, 1395f(a)(7), 1395i-3(d)(2)(B), 1395x(e), (f), (k), (r), (v)(1)(G), and (z), 1395aa, 1395hh, 1395tt, 1395ww, 1396d(a), and 1396r(d)(2)(B)).

2. In § 482.41, paragraph (b)(1) introductory text is republished, paragraph (b)(1)(i) and the footnote to

paragraph (b)(1) introductory text are revised to read as follows:

§ 482.41 Condition of participation: Physical environment.

(b) *Standard: Life safety from fire.* (1) Except as provided in paragraphs (b)(1)(i) through (b)(1)(iii) of this section, the hospital must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference.)¹

(i) Any hospital that on May 9, 1988, complied with the 1981 edition of the Life Safety Code, is considered to be in compliance with this standard as long as the facility has continued to remain in compliance with that edition of the Code.

¹ See footnote to § 483.70 of this chapter.

II. Part 483 is amended as follows:

PART 483—CONDITIONS OF PARTICIPATION AND REQUIREMENTS FOR LONG TERM CARE FACILITIES

1. The authority citation for part 483 continues to read as follows:

Authority: Sec. 1102, 1819(a), (d), 1861(j), and (l), 1863, 1871, 1902(a)(28), 1905(a) and (c), and 1919(a) and (d) of the Social Security Act (42 U.S.C. 1302, 1395(i)(3)(a) and (d), 1395x(f) and (l), 1395z, 1395hh, 1396a(a)(28), 1396d(a) and (c), and 1396r(a) and (d)), unless otherwise noted.

2. In § 483.70(a) the introductory paragraph is removed and paragraph (a)(1) is revised to read as follows:

§ 483.70 Level A requirement: Physical environment.

(a) *Level B requirement: Life safety from fire.* * * *

(1) A facility is considered to be in compliance with this requirement as long as on May 9, 1988, the facility complied, with or without waivers, with the 1981 edition of the Life Safety Code and has continued to remain in compliance with that edition of the Code.

3. In § 483.470, paragraph (j)(2)(i) introductory text is republished and paragraph (j)(2)(i)(C) is revised to read as follows:

§ 483.470 Condition of participation: Physical environment.

(j) *Standard: Fire protection—*

(2) *Exceptions.* (i) For facilities that meet the LSC definition of a health care occupancy:

(C) Compliance on April 18, 1986 with the 1981 edition of the LSC, with or without waivers, is considered to be compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

(Catalog of Federal Domestic Assistance Program No. 13.744, Medicare-Supplementary Medical Insurance Program; Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

Dated: July 18, 1990.

Gail R. Wilensky,

Administrator, Health Care, Financing Administration.

Approved: July 9, 1990.

Louis W. Sullivan,
Secretary.

[FR Doc. 90-17863 Filed 7-31-90; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Parts 550, 580 and 581

[Docket No. 90-23]

Automated Tariff Filing and Information System (ATFI); Ocean Freight Tariffs In Foreign and Domestic Offshore Commerce; Inquiry

AGENCY: Federal Maritime Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Automated Tariff Filing and Information System ("ATFI" or "System") of the Federal Maritime Commission ("FMC") will facilitate the electronic filing, processing and retrieval of tariff data required by statute to be filed with the FMC and made available to the public. Much of the System has been designed and developed and the FMC is now in a position to apprise the public of and obtain comment on some basic features being considered for ATFI and how they may impact current paper tariff practices. In order to develop appropriate rulemaking to implement electronic filing of tariffs, this Notice of Inquiry allows for public comment in advance of any proposed rules. Additionally, a public demonstration of the System (with opportunity for questions) will be held so that comments in this inquiry can be as meaningful as possible.

DATES: *Demonstration:* A demonstration of the System will be held at 10 a.m. on September 5, 1990. Attendees are

requested to call (202) 523-5866 by August 31, 1990. Seating will be on a first-come/first-served basis.

Comments: Written comments in response to this Notice (Original and 15 Copies) must be submitted by October 15, 1990.

ADDRESSES: *Demonstration:* FMC Hearing Room Number 1, 1100 L Street, NW., Washington DC.

Comments: Submit written comments to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT: John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5866.

SUPPLEMENTARY INFORMATION: In addition to providing advance notice to the public, the FMC is seeking views on the refined functionality and associated implementing technology of its proposed Automated Tariff Filing and Information System. Federal Register notices on this general subject previously appeared on December 22, 1987 (52 FR 48504); June 13, 1988 (53 FR 22048); and, December 29, 1988 (53 FR 52785).

In August 1989, a contract was awarded for the design and development of ATFI and work began under the contract in September 1989. Under FMC supervision, the Contractor validated (by comparing with, and updating, the specifications of the original Request for Proposals ("RFP")) the requirements and functionality of, and designed and developed, the System (Phases I through III of the contract). By March 1990, development was far enough along to be able to make available to the public technical File Transfer Formats and Code Reference Tables,¹ so that potential filers of tariff data could begin developing their own systems to electronically interface with ATFI, i.e., by being able to prepare tariff data in the proper format for filing by modem with, or physical submission on magnetic media to, the FMC.

The System's prototype phase (IV) began in April 1990, but before allowing volunteers from the public to "test" the System, the FMC and the Contractor mutually agreed upon a list of desirable changes which was developed under the contract through FMC and Contractor user comment. These include improvements on both technical and

¹ The File Transfer Formats and Code Reference Tables (transaction set) contain electronic data interchange transaction sets governing the order, form and size of each type of data that is required to be filed, and the ATFI Data Dictionary, which includes tables of abbreviations that must be used in the filing.

tariff policy matters. In July 1990, the basic contract was modified to incorporate these changes into the System, also as contemplated by the original contract.

The intended refinements, however, will require revision of the File Transfer Formats and Code Reference Tables. These revisions will be issued towards the end of 1990. The full incorporation of the agreed-upon changes should allow the public (volunteer) participation in the prototype system to begin in early 1991, and commencement of full-scale operation of ATFI (with phase-in of filers) in mid-1991. This programmed delay will allow industry users more time to prepare for electronic filing and retrieval. The FMC and the Contractor are confident that these improvements, as further detailed hereinafter, will result in a System that will be much more useful to the filing and retrieving public, and to the FMC in the performance of its statutory duties of surveillance and enforcement. Most of the refinements, as well as the basic functionality of the System, will be implemented through rulemaking, which will provide further opportunity for comment.

Accordingly, the FMC seeks public comment on the following ATFI issues and features which have been identified for possible incorporation into the System. Commenters are requested to refer to the item numbers when discussing the various issues and features in their comments.

A. Filing Matters

1. Harmonized System of Commodity Coding ("HS")

Upon the advice of the 1986 ATFI Industry Advisory Committee, the FMC previously decided against requiring standardized coding for commodities, but directed that ATFI be able to accommodate such a requirement, should it become desirable. Now, three years later, HS is required by the U.S. Customs Service for customs duties and many filers are using HS in their tariffs filed with the FMC. Therefore, it may be desirable at this point to adopt standardized commodity coding for ocean freight tariffs and the FMC seeks comment on the following aspects of the potential use of HS:

(a) Mandatory use in all commodity descriptions for both tariffs and Service Contract Essential Terms.

(b) Application to both inbound and outbound tariffs.

(c) Use at six- or ten-digit level.

(d) Addition of further modifiers for, e.g., greater specification in the