Control, 8(a)(9) Quality Assurance, 8(a)(10) Waivers and Compliance Via Diagnostic Inspection, 8(a)(11) Motorist Compliance Enforcement, 8(a)(12) Motorist Compliance Enforcement Program Oversight, 8(a)(13) Enforcement Against Contractors, Stations and Inspectors, 8(a)(14) Compliance with Recall Notices, 8(a)(15) Data Collection, 8(a)(16) Data Analysis and Reporting, 8(a)(17) Inspector Training and Licensing or Certification, 8(a)(18) Public Information, 8(a)(19) Consumer Protection Provisions, 8(a)(20) Improving Repair Effectiveness, 8(a)(21) On-Road Testing, 8(a)(22) State Implementation Plan Submission and Appendices.

(B) Letter dated May 4, 1994, from John Hall, Chairman of the Texas Natural Resource Conservation Commission to the EPA, clarifying the State's intent regarding its Executive Director's exemption policy and repair effectiveness program.

[FR Doc. 94–20475 Filed 8–19–94; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 350

[OPPTS–400089; FRL–4907–6]

Notice of Change of Address for Submission of Trade Secrecy Claims and Petitions Requesting Disclosure of Chemical Identities Under the Emergency Planning and Community Right-to-Know Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This notice announces the new mailing address to be used by facilities when submitting trade secrecy claims to EPA under sections 303(d)(2) and (d)(3), 311, 312, and 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (also known as Title III). The new address is also to be used by petitioners when submitting petitions requesting disclosure of chemical identities claimed trade secret by facilities on reports filed under sections 303(d)(2) and (d)(3), 311, 312, and 313 of Title III.

DATES: This change is effective August 15, 1994.

FOR FURTHER INFORMATION CONTACT: Doug Sellers, Project Officer, Title III Reporting Center, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–3587.

SUPPLEMENTARY INFORMATION: Beginning immediately, the mailing address for submitting the above-mentioned Emergency Planning and Community Right-to-Know information to EPA will change from Title III Reporting Center, Environmental Protection Agency, P.O. Box 23779, Washington, DC 20026–3779, to: EPCRA Reporting Center, Environmental Protection Agency, P.O Box 3348, Merrifield, VA 22116–3348, Attn:——. The attention line should indicate whether the enclosed information is subject to section 303, 311, 312, or 313. This change in mailing is being made to facilitate the receipt and processing of the above-mentioned information by EPA.

Dated: August 15, 1994.

Linda A. Travers,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 350 is amended as follows:

PART 350—[AMENDED]

1. The authority citation for part 350 continues to read as follows:

Authority: U.S.C. 11042 and 11043.

2. Section 350.16 is revised to read as follows:

§ 350.16 Address to send trade secrecy claims and petitions requesting disclosure.

All claims of trade secrecy under sections 303(d)(2) and (d)(3), 311, 312, and 313 and all public petitions requesting disclosure of chemical identities claimed as trade secret should be sent to the following address: EPCRA Reporting Center, Environmental Protection Agency, P.O. Box 3348, Merrifield, VA 22116–3348, Attn:——.

[FR Doc. 94–20555 Filed 8–19–94; 8:45 am]

BILLING CODE 6560–50–F

---

40 CFR Part 372

[OPPTS–400088; FRL–4904–6]

Hydrogen Sulfide; Methyl Mercaptan; Toxic Chemicals Release Reporting; Community Right-to-Know; Stay of Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Administrative stay.

SUMMARY: EPA is today announcing an Administrative Stay of the Emergency Planning and Community Right-to-Know (EPCRA) section 313 toxic chemical release reporting requirements for hydrogen sulfide (CAS No. 7783–06–4) and methyl mercaptan (CAS No. 74–93–1). These two chemicals were added to the 40 CFR part 372 Subpart D list of toxic chemicals in a final rule published in the **Federal Register** of December 1, 1993. The effect of this stay is to defer reporting on these two chemicals while the Agency reviews new data and information made available subsequent to the promulgation of the final rule. The Agency will make this information available for public comment, in a forthcoming **Federal Register** notice and will also at that time seek public comment on whether the Agency should propose to delete one or both of these chemicals from the EPCRA section 313 list of toxic chemicals. After evaluating the information and public comments the Agency will either propose to delete one or both of these chemicals or will reaffirm its original findings and dissolve this Administrative Stay. Today's action has no effect on any aspect of EPCRA section 313 toxic chemical release reporting other than hydrogen sulfide and methyl mercaptan.

EFFECTIVE DATE: August 22, 1994.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Project Manager, 202–260–9592, for specific information on this action. For general information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11023 (EPCRA) requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act (42 U.S.C. 13106). Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added and deleted chemicals from the original statutory list.

II. Background

In the **Federal Register** of December 1, 1993 (58 FR 63500), the Agency published a final rule adding 21 chemicals and 2 chemical categories to the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 list of toxic chemicals. The December 1993 **Federal Register** document was a result of a petition submitted to the Agency by the Natural Resources Defense Council and the Governor of New York. The petition asked the Agency to add 80 chemicals and 2 chemical categories to the EPCRA section 313 list of toxic chemicals. EPA proposed to grant this petition in part in a notice of proposed rulemaking (NPRM) published in the **Federal Register** of September 8, 1992 (57 FR 41020). In the final rule, EPA added to the EPCRA section 313 list of toxic chemicals 21 chemicals and 2 chemical categories. Included among the 21 chemicals and 2 chemical categories in the December 1993 final rule were hydrogen sulfide and methyl mercaptan. The Agency found that hydrogen sulfide met the section 313(d)(2)(B) criteria for cancer or other chronic human toxicity and the section 313(d)(2)(C) criteria for environmental toxicity. EPA found that methyl mercaptan met the section 313(d)(2)(B) criteria for cancer or other chronic human toxicity.

III. Basis for Administrative Stay

A. Overview

Since the promulgation of the final rule adding hydrogen sulfide and methyl mercaptan to the list of toxic chemicals, additional information concerning these chemicals has been brought to the Agency's attention. The Agency has also learned that some members of the regulated community are concerned that the basis for the Agency's final action on these chemicals was inadequately described in the rulemaking record. Furthermore, these members of the regulated community have charged that the Agency violated various requirements of the Administrative Procedure Act in promulgating the final listings of hydrogen sulfide and methyl mercaptan. These issues are summarized below. The Agency feels that it is important and appropriate to administratively stay the effectiveness of the listing of these two chemicals while giving the public an opportunity to comment on these issues and the additional information, as well as to comment on whether the Agency's initial determination that both hydrogen sulfide and methyl mercaptan satisfy the section 313(d) criteria for addition to the list of toxic chemicals.

To that end, in conjunction with this Administrative Stay, the Agency will be issuing a forthcoming **Federal Register** notice which will seek comment on the Agency's initial determination for these two chemicals, the additional information which has been brought to the Agency's attention, procedural issues concerning the initial final rule, and generally, comments (and any supporting data) on whether the Agency should either propose to delete one or both of the chemicals or affirm its initial determination and dissolve today's Administrative Stay.

Under the final rule, reporting for hydrogen sulfide and methyl mercaptan are required beginning with activities during the 1994 calendar year, with the first reports due on July 1, 1995. Because of the controversy surrounding the listing of these two chemicals and the decision to issue this Administrative Stay, EPA finds it unnecessary and inappropriate to subject facilities, some of whom may be subject to section 313 reporting for the first time because of the listing of hydrogen sulfide or methyl mercaptan, to the burden of collecting release information and preparing to file Toxic Release Inventory (TRI) Form R reports for the 1994 reporting year. Therefore, pending a decision by the Agency of whether to propose to delete one or both of the chemicals or to affirm its final rule determination, the effectiveness of the listing of these two chemicals on the list of toxic chemicals is administratively stayed. EPA's decision will be made promptly after consideration of public comment submitted on the pending **Federal Register** notice.

B. Substantive and Procedural Issues Surrounding Final EPCRA Section 313 Listing

Although the Agency will soon be issuing a separate **Federal Register** notice and seeking public comment, the following is a brief summary of the issues and new information related to hydrogen sulfide and methyl mercaptan which support this Administrative Stay. In addition, a brief discussion of the use of exposure analysis under section 313 listing determinations also follows. This is another issue the Agency will be presenting in the upcoming **Federal Register** notice.

1. *Hydrogen sulfide.* Concern has been expressed that the Agency shifted its basis for adding hydrogen sulfide to the EPCRA section 313 list between the NPRM and the final rule. EPA proposed to list hydrogen sulfide because it exhibited chronic human toxic effects, specifically citing respiratory effects. In the final rule, the Agency agreed with commenters who argued that some of the respiratory effects cited in the proposal (inflammation, edema, cellular necrosis, hyperplasia, and exfoliation) were better characterized as acute effects than as chronic effects. The Agency nonetheless listed hydrogen sulfide for chronic effects because the observed neurotoxic effects, such as insomnia, anxiety, perceptual ability and cognitive impairments were chronic in nature. Although the statutory basis for the determination did not change, the Agency cited chronic neurotoxic effects in the final rule and chronic respiratory effects in the NPRM. EPA recognizes that, although its ultimate finding remained unchanged in the final rule, interested parties may disagree with the Agency's position that the information on neurotoxicity supports a finding under section 313(d)(2)(B). EPA believes good cause exists to issue this Administrative Stay to allow parties time to prepare and submit comment and information on this point. As noted earlier, the pending **Federal Register** notice will provide the mechanism for submitting any comments and relevant information.

2. *Methyl mercaptan.* As with hydrogen sulfide, concerns have been raised about the basis for listing methyl mercaptan as discussed in the NPRM and in the final rule. EPA proposed to list methyl mercaptan because scientific evidence showed that it exhibited chronic human toxicity effects, specifically citing neurotoxicity. The Agency affirmed this finding in the final rule. Since the publication of the final rule, however, it has come to the Agency's attention that one of the scientific sources relied upon by the Agency in making this determination may have been inaccurately or incompletely summarized from the original source.

In reviewing the available information for methyl mercaptan, EPA relied on Sandmeyer, "Organic Sulfur Compounds," in Patty's Industrial Hygiene and Toxicology handbook, a common chemical reference work (Ref. 2). Sandmeyer, in turn, appears to have relied on another work by Kvartovkina and Moerson, (Ref. 1), a 1974 work published in Russian. When translated (a translation of the article will be provided as part of the record for the forthcoming **Federal Register** notice), there are a number of additional factors and limitations which may diminish the usefulness of this study for purposes of EPCRA section 313 listing determinations. For example, the findings in the original study were made, collectively, for a number of chemicals, one of which was methyl mercaptan. These potential translation and summary problems were not presented to EPA during the public comment period, nor was the Agency independently aware of the original Russian source. Given the Agency's longstanding intent to base its decisions on sound science and the potential problems posed by the above information, EPA believes good cause exists to issue this Administrative Stay to allow parties time to review the full information and prepare and submit comment on this point through the pending **Federal Register** notice.

3. *Analysis of exposure to hydrogen sulfide and methyl mercaptan.* Several representatives of the regulated community have expressed concern that, in listing hydrogen sulfide and methyl mercaptan, EPA was unclear in its application of the statutory criteria. Among other things, charges have been made that EPA's decision not to include evidence of exposure in deciding to list hydrogen sulfide and methyl mercaptan on the basis of chronic human toxicity was inconsistent with past Agency practice. These charges raise important and potentially far reaching issues of the Agency's interpretation of its mandate under the statute.

EPA does not agree that it has inconsistently approached the issue of the use of exposure analysis in EPCRA section 313 listings. However, many members of the regulated community have expressed dissatisfaction, alleging that the Agency has neither consistently or correctly addressed the issue of exposure. The Agency believes that a consistent approach to the EPCRA section 313 listing process is both necessary and important and that, given the charges of inconsistency with respect to exposure analysis, the public deserves an opportunity to be presented with further clarification of the Agency's position on this critical issue. A more complete discussion of this issue will be provided in the pending **Federal Register** notice.

4. *Legal authority.* As described above, the Agency believes that this Administrative Stay is appropriate and in the interests of justice, given the allegations of procedural and substantive deficiencies surrounding the Agency's listing of these two chemicals, and the resulting controversy and confusion in the regulated community. Although the Agency does not regard today's action as a rule, were it to be viewed as a rule, the Agency believes that there is good cause for issuing it without prior notice and opportunity for comment and for making it immediately effective. Under section 313(a), facilities face a current and ongoing obligation to collect information about releases of hydrogen sulfide and methyl mercaptan. Such activities are potentially quite burdensome, particularly for any facility made subject to section 313 reporting requirements for the first time because of the listing of these two chemicals. Until such time as the issues described in this document are resolved, EPA believes that today's Administrative Stay is necessary. As stated above, EPA will be issuing a notice in the **Federal Register** to begin addressing these issues and will move with dispatch toward final resolution of the status of these two chemicals.

In addition, this Administrative Stay is authorized by 5 U.S.C. section 705, which provides that an agency may postpone the effective date of action taken by it when justice so requires, pending judicial review. No petition for review has been formally filed as of this date with respect to the listing of hydrogen sulfide and methyl mercaptan. However, both the Chemical Manufacturers Association and the American Forest and Paper Association have told the Agency that unless administrative action is taken to resolve the issues outlined in today's document, a prompt legal challenge will be brought. These two organizations represent the interests of a large portion of the facilities subject to section 313, including those affected by the listing of hydrogen sulfide and methyl mercaptan. The Agency believes that rather than going through costly and potentially protracted litigation, an Administrative Stay coupled with a **Federal Register** notice and opportunity to comment is both consistent with the goal of the TRI program to involve the public in the resolution of important issues and clearly in the interests of justice.

IV. References

1. Kvartovkina, L. K. and Moerson, E. A. "Problems of Hygiene in the Production of Some Organic Sulfur Components." Tezisy Dokl. Nauchn. Sess. Khim-Teknol Org. Soedin. Sery Sernistykh Neftei, 13, 81 (1974).

2. Sandmeyer, E. E. "Organic Sulfur Compounds," in Patty's Industrial Hygiene and Toxicology, 3rd Revised Edition. Vol. 2A; "Toxicology." Eds. G. D. Clayton and F. E. Clayton. New York: John Wiley and Sons. pp. 2063–2070 (1981).

V. Effective Date of Administrative Stay

This Administrative Stay, which applies only to the listing of hydrogen sulfide and methyl mercaptan on the EPCRA section 313 list of toxic chemicals is effective August 22, 1994.

VI. Paperwork Reduction Act

There are no information collection requirements associated with this action.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: August 11, 1994.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 372 is amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 continues to read as follows:

AUTHORITY: 42 U.S.C. 11023 and 11048.

§ 372.65 [Amended]

2. Section 372.65 is amended by staying the hydrogen sulfide and methyl mercaptan entries and all related dates under paragraph (a) and under paragraph (b), staying the entries for CAS Nos. 74–93–1 and 7783–06–04 and all related dates.

[FR Doc. 94–20556 Filed 8–19–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

[MB–001–F]

RIN 0938–AA58

Medicaid Program; Eligibility and Coverage Requirements

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

ACTION: Final rule.

SUMMARY: This final rule withdraws regulations setting forth a mandatory budgetary method for determining financial eligibility for individuals who are not receiving or deemed to be receiving Federal cash assistance but whose financial eligibility for Medicaid is being determined through the application of financial criteria of the Aid to Families with Dependent Children (AFDC) program. These regulations were previously issued as part of a final rule with comment period originally published on January 19, 1993, and were to be effective October 18, 1994.

This final rule also makes conforming technical changes, as a result of this withdrawal, to the remainder of the January 19, 1993, final rule and reaffirms the August 18, 1994, effective date of this remaining part.

These changes are being made as a result of consideration of public comments received.

EFFECTIVE DATE: August 18, 1994.

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (410) 966–4451.

SUPPLEMENTARY INFORMATION:

I. Background

On January 19, 1993 (58 FR 4931), we published in the **Federal Register** a final rule with comment period that amended the requirements for coverage of certain groups of individuals under Medicaid and the requirements for determining Medicaid eligibility. Because the new administration wanted to fully review the policies in these regulations, on February 19, 1993, we published a notice in the **Federal Register** (58 FR 9120) delaying the effective dates and compliance dates of the final rule with comment period for 6 months. These dates were extended for two additional 6-month periods in subsequent notices published in the **Federal Register** on August 23, 1993 (58 FR 44457) and February 18, 1994 (59 FR 8138).

These regulations incorporated into the Medicaid regulations substantive changes made in the composition of eligibility groups of individuals and in the criteria used to determine their financial eligibility under Medicaid. The substantive changes were initially made by the Omnibus Budget Reconciliation Act of 1981 (OBRA '81), Public Law 97–35, and the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Public Law 97–248, and further amended by the Deficit Reduction Act of 1984 (DRA), Public Law 98–369; the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99–272; the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), Public Law 99–509; the Medicare and Medicaid Patient and Program Protection Act of 1987, Public Law 100–93; the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Public Law 100–203; the Medicare Catastrophic Coverage Act of 1988 (MCCA), Public Law 100–360; the Family Support Act of 1988, Public Law 100–485; the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101–239; and the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101–508. In addition, the document contained changes made as a result of administrative decisions to improve program administration and efficiency.

Basically, the January 1993 rule had two parts with different effective dates. The first part codified a number of statutory changes dating as far back as 1981. This part was classified as a final rule. As extended by the subsequent notices to the January 1993 publication, the effective date for these regulations is August 18, 1994.

The second part of the January 1993 rule set forth a mandated budgeting method for determining the financial eligibility of individuals who are not receiving or deemed to be receiving Federal cash assistance but whose financial eligibility for Medicaid is being determined through application of the financial criteria under the Aid to Families with Dependent Children (AFDC) program (referred to as "AFDC-related non-cash assistance individuals"). This part was classified as a final rule with comment period. As extended by the subsequent notices to the January 1993 rule, the effective date for this part is October 18, 1994.

The budgetary method set forth in the regulations was developed to clarify contradictory provisions in the Social Security Act (the Act) that had resulted in litigation. Basically, title XIX of the Act (section 1902(a)(10)) requires that the methods of the Federal cash assistance program most closely related to the individual's status be used to determine income and resources for purposes of Medicaid eligibility. At the same time, title XIX (section 1902(a)(17)(D)) prohibits use of some of those same methods without specifying what should be used in their place. That is, section 1902(a)(17)(D) of the Act prohibits the consideration of income and resources of family members as available to applicants and recipients (unless actually made available) except (1) an applicant or recipient for his or her respective spouse; and (2) parents for their children who are either under 21 or who are blind and disabled regardless of age. This requirement became a problem for AFDC-related non-cash assistance cases when an AFDC statutory change in 1984 mandated that all family members living together be considered one family unit for AFDC eligibility purposes and that the income and resources of all family members be pooled. As a result, AFDC sometimes requires attributing income and resources from persons other than spouses or parents (siblings, stepparents, grandparents, legal guardians, and alien sponsors) as available to the applicant or recipient. Use of the AFDC methods for cases involving income from persons other than spouses or parents, however, is contrary to section 1902(a)(17)(D) of the Act.

Since 1984, courts in a number of jurisdictions have ruled that section 1902(a)(17)(D) of the Act, which limits whose income and resources can be counted (unless actually made available), overrides section 1902(a)(10) of the Act, which requires that the AFDC methods be used to determine Medicaid eligibility for AFDC-related non-cash assistance cases. These rulings left open the issue of what method should be used uniformly among States. Currently, States are using a variety of methods for determining income for Medicaid eligibility purposes.

In response to our request for public comments on the January 1993 rule, we received many objections to the budgeting method set forth in the regulations. Specifically, we set forth in the January 1993 rule a prorating method of determining eligibility for AFDC-related non-cash assistance individuals. Under this method, individual members of the Medicaid budgetary unit would have their income and resource eligibility determined using separate standards that are calculated based on proration of existing standards. Parents' countable income and resources would be prorated equally among their dependents living in the home, including non-Supplemental Security Income dependents who may not be members of the budgetary unit. The proration would also take into account the needs of the parents. We also addressed how certain types of income would be counted and how certain types of disregards would be calculated.

We received comments from 13 States and 7 special interest groups. With one exception, all of the commenters objected to the budgeting method in these regulations. These commenters stated that the new procedure was error prone and unnecessarily complex. In addition, they believed that the required system and manual changes and personnel retraining would result in significant administrative costs.

We considered these comments, especially in the light of health care reform legislation. We also worked with the Medicaid Eligibility Technical Advisory Group (ETAG) to develop an acceptable policy. The ETAG prefers a policy that minimizes the disruption of current approaches. We also met with recipient advocates who endorse allowing States a choice of several options, but strongly oppose allowing the budgeting method in the referenced regulation to be one of these options.

Consequently, we are withdrawing the regulations containing the mandatory budgetary method for determining financial eligibility for AFDC-related non-cash assistance individuals. By doing this, we are allowing States flexibility, within any constraints imposed by court orders or agreements with recipient advocate groups, to interpret the current provisions in the law. That is, at this time, in the absence of specific regulatory guidance on the methodologies for establishing income and resource eligibility for AFDC-related non-cash assistance individuals, States will be required to use methodologies that comply with the statute and any applicable court orders.

II. Provisions of the Final Regulation

As a result of our decision to withdraw the regulations that require States to use a mandatory budgetary method for determining financial eligibility for AFDC-related non-cash assistance individuals, we are making the following changes to the January 1993 rule:

- We have withdrawn §§ 435.604, 435.606, 436.604, and 436.606. These sections contained the procedures for determining income and resource eligibility for AFDC-related non-cash assistance groups.
- We have removed and reserved § 435.113(b) and § 436.111(b)(2). These paragraphs required States to provide Medicaid to individuals denied AFDC because of the involuntary inclusion of all eligible siblings living in the home as members of AFDC filing units.
- We have removed and reserved § 435.600(b) and § 436.600(b). These sections referred respectively to § 435.604 and § 436.604, which have been removed.
- We have revised § 435.601 and § 436.601 by removing paragraph (e) in each section. These paragraphs contain criteria for exceptions to financial application eligibility methodologies and State plan requirements that are no longer applicable. We also have corrected related cross-references in paragraph (b) and (f)(l) of each section.
- We have revised § 435.602 by removing and reserving paragraph (d) and § 436.602 by removing and reserving paragraph (c). These paragraphs contain requirements for determining financial responsibility of relatives and other individuals for AFDC-related non-cash assistance groups. We also have corrected related cross-references in §§ 435.602(a), 436.602(a), and 436.602(a)(2).

The remainder of the January 1993 rule is unchanged and is effective on August 18, 1994.

III. Regulatory Impact Statement

We generally prepare a final 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 regulation will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all Medicaid providers as small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds that is located outside a metropolitan statistical area.

This final rule revises the January 19, 1993, final rule with comment period. We have decided to withdraw the second part of that rule which basically codified a mandatory budgetary method for determining financial eligibility for AFDC-related non-cash assistance individuals. We concluded, along with a number of other entities, that this provision would result in significant administrative costs. The mandatory budget method has, therefore, been withdrawn.

This final rule will take effect on August 18, 1994. We believe that the withdrawal of the referenced regulations minimizes any unnecessary burden on the public, and that the best regulatory options have been selected. Further, we believe that these regulations will not lead to increased costs. Therefore, we have determined that these provisions will have a negligible cost effect and that a regulatory impact analysis is not required.

We have determined, and the Secretary certifies, that this final rule will not result in a significant economic impact on a substantial number of small entities and will not have a significant impact on the operations of a substantial number of small rural hospitals. For these reasons, we are not preparing analyses for either RFA or section 1102(b) of the Act.

This final rule does not contain information collection requirements; therefore, it is not subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by OMB.

Lists of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs—health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs—health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands

42 CFR Chapter IV, Subchapter C is amended as follows:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

A. Part 435, as published in the **Federal Register** on January 19, 1993 (58 FR 4931), and further amended to be effective on August 18, 1994 or October 18, 1994, is amended as follows:

1. The authority citation for part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 435.113 [Amended]

2. Section 435.113 is amended by removing and reserving paragraph (b).

§ 435.600 [Amended]

3. Section 435.600 is amended by removing and reserving paragraph (b).

§ 435.601 [Amended]

4. Section 435.601 is amended as follows:

a. In paragraph (b), the phrase "Except as specified in paragraphs (c), (d), and (e)," is revised to read "Except as specified in paragraphs (c) and (d),".

b. Paragraph (e) is removed and reserved.

c. In paragraph (f)(1), the phrase "except to the extent precluded by §§ 435.602, 435.604, and 435.606," is revised to read "except to the extent precluded in § 435.602,".

§ 435.602 [Amended]

5. Section 435.602 is amended as follows:

a. In paragraph (a), the phrase "Subject to the provisions of paragraphs (b), (c), and (d) of this section," is revised to read "Subject to the provisions of paragraphs (b) and (c) of this section,".

b. Paragraph (d) is removed and reserved.

§435.604 [Withdrawn]

6. Section 435.604 is withdrawn and the section number is reserved.

§435.606 [Withdrawn]

7. Section 435.606 is withdrawn and the section number is reserved.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

B. Part 436, as published in the Federal Register on January 19, 1993 (58 FR 4931), and further amended to become effective on August 18, 1994 or October 18, 1994, is amended as follows:

1. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§436.111 [Amended]

2. Section 436.111 is amended by removing and reserving paragraph (b)(2).

§436.600 [Amended]

3. Section 436.600 is amended by removing and reserving paragraph (b).

§436.601 [Amended]

4. Section 436.601 is amended as follows:

a. In paragraph (b), the phrase "Except as specified in paragraphs (c), (d) and (e) of this section," is revised to read "Except as specified in paragraphs (c) and (d) of this section,".

b. Paragraph (e) is removed and reserved.

c. In paragraph (f)(1), the phrase "except to the extent precluded by §§436.602, 436.604, and 436.606," is revised to read "except to the extent precluded by § 436.602,".

§436.602 [Amended]

5. Section 436.602 is amended as follows:

a. In the introductory text of paragraph (a), the phrase "Subject to the provisions of paragraphs (b), (c), and (d) of this section," is revised to read "Subject to the provisions of paragraphs (b) and (c) of this section,".

b. In paragraph (a)(2), the phrase ", except as specified in paragraphs (c) and (d) of this section" at the end of the first sentence is removed.

c. Paragraph (c) is removed and reserved.

§436.604 [Withdrawn]

6. Section 436.604 is withdrawn and the section number is reserved.

§435.606 [Withdrawn]

7. Section 436.606 is withdrawn and the section number is reserved.

(Catalog of Federal Domestic Assistance Program No. 93.778-Medical Assistance Program)

Dated: August 11, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: August 12, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94–20561 Filed 8–18–94; 8:45 am]

BILLING CODE: 4120–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base (100-year) flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base (100-year) flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The Modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base (100-year) flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base (100-year) flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.