

Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: December 23, 1997.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is 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.

§ 180.442 [Amended]

2. In § 180.442, by amending paragraph (b) in the table, for the commodities "broccoli" and "cauliflower" by removing "1/31/98" and by adding in its place "1/31/99".

[FR Doc. 98-561 Filed 1-8-98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[OPP-300541A; FRL-5761-9]

RIN 2070-AB78

Thiodicarb; Pesticide Tolerance; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued in the **Federal Register** of August 22, 1997, a document establishing tolerances for the combined residues of thiodicarb and its metabolite, methomyl, in or on broccoli, cabbage, cauliflower, and leafy vegetables (except *Brassica* vegetables). This document corrects an error published in Table 1 of the preamble.

DATES: This correction is effective January 9, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: Thomas C. Harris, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall 2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5404, e-mail: harris.thomas@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In FR Doc. 97-22397 in the **Federal Register** of August 22, 1997 (62 FR 44582) (FRL-5739-7), make the following correction:

On page 44589, in the second column, in Table 1, under column four, the margin of exposure (MOE) for U.S. Population now reading "218" should read "725".

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Parts 180 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 10, 1997.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98-420 Filed 1-8-98; 8:45 a.m.]

BILLING CODE 6560-50-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[HCFA-1004-FC]

RIN 0938-AI34

Medicare Program; Limit on the Valuation of a Depreciable Asset Recognized as an Allowance for Depreciation and Interest on Capital Indebtedness After a Change of Ownership

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

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period revises the Medicare provider reimbursement regulations relative to allowable costs and sets a limit on the valuation of a depreciable asset that may be recognized in establishing an appropriate allowance for depreciation and for interest on capital indebtedness after a change of ownership that occurs on or after December 1, 1997. These provisions apply to providers that are reimbursed on the basis of reasonable costs. This change implements the mandate in section 4404 of the Balanced Budget Act of 1997 (Pub. L. 105-33).

DATES: *Effective Date:* This final rule is effective January 9, 1998.

Applicability: Pursuant to 5 U.S.C. 808(2), as well as section 1861(v)(1)(O) of the Social Security Act (as amended by section 4404 of Pub. L. 105-33), this rule applies to changes of ownership that occur on or after December 1, 1997.

Comment Period: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on March 10, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Department of Health and Human Services, Health Care Financing Administration, Attention: HCFA-1004-FC, P.O. Box 7517, Baltimore, Maryland 21207-0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201, or Room C5-11-17, Central Building, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Comments may also be submitted electronically to the following e-mail address: HCFA-1004-FC@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will also be available for public inspection at the Independence Avenue address below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-1004-FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a 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 5:00 p.m. (Phone: (202) 690-7890).

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using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512-1661; type swais, then login as guest (no password required).

FOR FURTHER INFORMATION CONTACT: Ann Pash, (410) 786-4516

SUPPLEMENTARY INFORMATION:

I. Background

Under Medicare's reasonable cost reimbursement system, appropriate allowance for depreciation and for interest on capital indebtedness on buildings and equipment used in the provision of patient care is based in part on the historical cost of the asset. Prior to the enactment of the Balanced Budget Act of 1997 (Pub. L. 105-33), when a Medicare certified provider's capital asset is disposed of through sale, scrapping, trade-in, exchange, demolition, abandonment, condemnation, fire, theft, or other casualty, Medicare recognized a gain or a loss from the transaction. Currently, under regulations at § 413.134, if the facility is purchased as an ongoing operation, the cost basis for the assets of the facility is limited, based on when the transaction occurred and by the type of provider involved.

Section 1861(v)(1) of the Social Security Act (the Act) provides the general statutory authority for reimbursement on the basis of reasonable costs. Section 1861(v)(1)(O) of the Act addresses specifically the appropriate allowance for depreciation and interest for a capital asset of a hospital or a skilled nursing facility that has undergone a change of ownership. The regulations governing the allowance for depreciation based on asset costs are set forth in § 413.134. They are applicable to all providers reimbursed on the basis of reasonable costs.

Under § 413.134(f), if the disposal of a depreciable asset results in a gain or a loss, an adjustment is necessary in the provider's allowable costs. The treatment of the gain or loss depends upon the manner of disposition of the asset and its net book value as determined under the regulations. Generally when a provider sells its depreciable assets at more than the net book value, Medicare shares in the gain. If the provider sells its depreciable assets at less than the net book value, Medicare shares in the loss. The amount of a gain is limited to the amount of depreciation previously included in Medicare allowable costs. The amount of a loss is limited to the undepreciated

basis of the asset permitted under the program.

Recent increases in the number of hospital sales have raised concerns about Medicare's liability for depreciation adjustments. In fact, the Office of the Inspector General (OIG) of the Department of Health and Human Services, conducted a study and issued a report in June 1997, Medicare Losses on Hospital Sales (OEI-03-96-00170), that quantifies the financial impact of hospital sales on the Medicare program. The scope of its study was acute care hospital changes of ownership (except bankruptcies) that met Medicare requirements for a depreciation adjustment during fiscal Years 1990 through 1996. The OIG found that for 229 hospitals sold between 1990 and 1996, there were \$453 million in losses and \$56 million in gains, for a net loss of \$397 million. The OIG also noted that during the period of the study, another \$174 million net loss had been reported by hospitals but not yet settled by Medicare. Also, another 88 hospital sales had occurred but financial data were not available.

Additionally, the study also showed that net losses reported to the program increased 322 percent from \$29 million in 1990 to \$122 million in 1996. While Medicare shared in the loss for 161 hospitals, it shared in the gain for only 33 hospitals. The OIG report recommended that the depreciation adjustments on hospital sales be discontinued in that it is an unnecessary holdover from the cost-based reimbursement system. The provisions of section 4404 of Public Law 105-33 address the concerns raised by the OIG report.

II. Provisions of the Final Regulation With Comment Period

This final rule with comment period revises § 413.134 to implement the provisions of section 4404 of Public Law 105-33. Section 4404 sets a limit on the valuation of a depreciable asset that may be recognized in establishing an allowance for depreciation and for interest on capital indebtedness after a change of ownership that occurs on or after December 1, 1997. The statute specifies that these provisions apply to "changes of ownership that occur after the third month beginning after the date of enactment of this section." This language is ambiguous because it is unclear whether the reference to "month" means a calendar month or a period of approximately 30 days. Thus, the language could be interpreted to mean that the effective date is either December 1, 1997 or November 5, 1997. Because there has been some confusion

in the provider community on this issue, we have decided to adopt the less restrictive reading, that is, an effective date of December 1, 1997. The provisions of this section apply to providers paid on a reasonable cost basis.

Under these provisions, when a depreciable asset of a provider undergoes a change of ownership, the valuation of the asset, for purposes of establishing a Medicare allowance for depreciation and interest, will be the historical cost of the asset to the owner of record, less depreciation allowed. Thus, when a depreciable asset is sold, the value of the asset to the seller will be the historical cost (as recognized under Medicare) to the owner of record as of August 5, 1997, less depreciation allowed. In this case, there will be no adjustment for gain or loss on the sale. For the buyer, the value of the asset will also be the historical cost (as recognized under Medicare) to the owner of record as of August 5, 1997, less depreciation allowed. Accordingly, the new owner's allowance for depreciation and interest will be based on this value. Stated simply, the asset moves from the hands of the seller to the hands of the buyer at the asset's net book value defined in § 413.134(b)(9). In light of section 4404 of Public Law 105-33, we are making conforming changes to § 413.134(b)(1)(i) to add an expanded description of the historical cost of a depreciable asset acquired on or after December 1, 1997.

III. Other Required Information

A. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking to provide a period for public comment on substantive changes to our regulations. However, section 1871(b) of the Social Security Act provides that publication of a notice of proposed rulemaking is not required before a rule takes effect where "a statute establishes a specific deadline for the implementation of the provision and the deadline is less than 150 days after the date of the enactment of the statute in which the deadline is contained." In addition, we may waive a notice of proposed rulemaking if we find, for good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. The changes in this final rule conform the regulations to section 1861(v)(1)(O) of the Act, as amended by section 4404 of Public Law 105-33. For good cause, we find that prior notice is unnecessary, and also impracticable because of the limited time frame between the enactment of section 4404 and the effective date of section 4404 of

Public Law 105-33. However, we are furnishing a subsequent public comment period for public response to this final rule with comment period.

B. Effect of the Contract With America Advancement Act, Public Law 104-121

Normally, under 5 U.S.C. 801, as added by section 251 of Public Law 104-121, the effective date of a major rule is delayed 60 days for Congressional review. This has been determined to be a major rule under title 5, United States Code, section 804(2). However, as indicated in section III.A. of the preamble to this final rule with comment period, for good cause, we find that prior notice and comment procedures are unnecessary and impracticable. Pursuant to 5 U.S.C. 808(2), a rule shall take effect at such time as the Federal agency promulgating the rule determines if it finds, for good cause, that prior notice and comment procedures are unnecessary or impracticable. Accordingly, under the exemption provided in 5 U.S.C. 808(2), this final rule with comment period is effective for changes of ownership that occur on or after December 1, 1997.

IV. Regulatory Impact Statement

We have examined the impact of this final rule with comment period as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, most hospitals, and most other providers, physicians, and health care suppliers are small entities, either by nonprofit status or by having revenues of \$5 million or less annually.

Also, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any final 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 that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

This final rule with comment period revises the Medicare regulations that are affected by section 4404 of Public Law

105-33 that was enacted on August 5, 1997. This rule describes the new limitation on the valuation of assets that undergo a change of ownership on or after December 1, 1997. These statutory changes will affect providers with depreciable assets that are paid on a reasonable cost basis and that undergo a change of ownership.

Background

Since the beginning of the Medicare program, providers increasingly have been involved in acquisitions through purchase, merger, and/or consolidation. These transactions have involved both chain provider organizations and independent providers. Under current payment rules for providers other than hospitals and skilled nursing facilities, acquisitions frequently result in increased levels of Medicare payments. This occurs because the acquiring entity usually pays more for the acquired assets than the amount at which they are carried on the records of the prior owner. Generally, the amount at which the asset is acquired is the basis upon which Medicare payments are determined. For hospitals and skilled nursing facilities, this upward revaluation was limited for transactions occurring on or after July 18, 1984 by section 2314 of Public Law 98-369. However, for all providers, if the disposal of a depreciable asset results in a gain or loss, an adjustment is made in the provider's allowable costs. There is justified concern with the financial impact of this adjustment on the Medicare program.

Impact on Providers

Under section 4404 of Public Law 105-33, Congress eliminated Medicare's participation in the gains and losses that result from a change of ownership. Yet, we do not believe that this rule will have an impact on the current level of acquisitions. There are a number of factors other than gain or loss on a capital asset that affect a provider's decision regarding acquisitions. These factors include excess bed capacity, new technologies, changes in the service area, increased buying power, market entry initiatives, and other economic factors. These factors will not be affected by this final rule with comment period.

However, as a result of the enactment of section 4404 of Public Law 105-33, there will be a financial impact on those providers that undergo a change of ownership. For providers other than hospitals and skilled nursing facilities, Medicare payment will be reduced for capital expenses. For all providers, Medicare will no longer share in the

loss, or gain, that results from a change of ownership. We are not able to estimate with certainty the effect this provision will have on Medicare payments because we do not know how many changes of ownership will occur nor, of the changes that do occur, how many will result in a gain and how many will result in a loss.

As a step in the overall pricing of Public Law 105-33, HCFA actuaries estimated the impact of the provisions of section 4404 as a 5-year savings of \$300 million. The preliminary estimate was released through the FY 1998 Mid-Session Review of the President's Budget. The following table shows the preliminary annual savings estimates:

FY	Savings (million)
1998	\$50
1999	60
2000	60
2001	60
2002	70

In a subsequent evaluation based on additional data HCFA actuaries revised estimates of the savings to the program for the 5-year period 1998 through 2002. The revised 5-year estimate of \$409 million assumes a lag of one year between the sale of a facility and the Medicare payment. Under this assumption, there are no savings calculated for FY 1998. The following table shows the revised annual savings estimates:

FY	Savings (million)
1998	
1999	91
2000	98
2001	106
2002	114

While this estimate represents a significant impact on providers, this effect arises directly from the provisions of section 4404 of Public Law 105-33. The relevant changes to the regulations merely conform the regulations text to the statute. The statute mandates that we implement this limitation.

In accordance with the provisions of Executive Order 12866, this final rule with comment period was reviewed by the Office of Management and Budget.

V. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and

time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413 is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. In § 413.134 the introductory text of paragraph (b)(1) is republished and paragraphs (b)(1)(i), (b)(1)(ii)(A), (f)(1), and (f)(2) paragraph heading are revised, new introductory text is added to paragraph (f)(2), the heading of paragraph (g) is republished, paragraph (g)(4) is redesignated as paragraph (g)(5), and a new paragraph (g)(4) is added to read as follows:

§ 413.134 Depreciation: Allowance for depreciation based on asset costs.

* * * * *

(b) *General rules—(1) Historical cost.* Historical cost is the cost incurred by the present owner in acquiring the asset.

(i) *All providers—(A) Depreciable assets acquired after July 31, 1970 and before December 1, 1997.* For depreciable assets acquired after July 31, 1970 and before December 1, 1997, and for a hospital or an SNF, acquired before July 18, 1984, the historical cost may not exceed the lower of current reproduction cost adjusted for straight-line depreciation over the life of the asset to the time of the purchase or the fair market value of the asset at the time of its purchase.

(B) *Depreciable assets acquired on or after December 1, 1997.* For depreciable assets acquired on or after December 1, 1997, the historical cost of the asset that will be recognized under this program must not exceed the historical cost less depreciation allowed to the owner of record as of August 5, 1997 (or if an asset did not exist as of August 5, 1997, the first owner of record after August 5, 1997). For this paragraph (b)(1)(i)(B), the following apply:

(1) An asset that was not in existence as of August 5, 1997 includes an asset that physically existed but was not owned by a provider participating in the Medicare program as of that date.

(2) The acquisition cost to the owner of record is subject to the limitation on historical costs described in paragraphs (g) (1), (2), and (3) of this section, and is reduced by any depreciation taken by the owner of record. The limitation on historical cost is also applied to the purchase of land, which is a capital asset that is neither depreciable nor amortizable under any circumstances. (See §§ 413.153(d) and 413.157(b) for application of the limitation to the cost of land for purposes of determining the allowable interest expense.)

(3) Acquisition cost to the owner of record includes the costs of betterment or improvements that extend the estimated useful life of an asset at least 2 years beyond its original estimated useful life or that increase the productivity of an asset significantly over its original productivity.

(4) For assets acquired prior to a provider's entrance into the Medicare program, the acquisition cost to the owner of record is the historical cost when acquired, rather than when the provider entered the program.

(5) For assets subject to the optional depreciation allowance as described in § 413.139, the acquisition cost to the owner of record is the historical cost established for those assets when the provider changed to actual depreciation as described in § 413.139(e). If the provider did not change to actual depreciation, as described in § 413.139(e), for optional allowance assets, the acquisition cost to the owner of record is based on the provider's recorded historical cost of the asset when acquired. If the provider has no historical cost records for optional allowance assets, the acquisition cost to the owner of record is established by appraisal.

(6) The historical cost of an asset acquired on or after July 18, 1984 may not include costs attributable to the negotiation or settlement of the sale or purchase (by acquisition, merger, or consolidation) of any capital asset for which any payment was previously made under the Medicare program. The costs to be excluded include, but are not limited to, appraisal costs (except those incurred at the request of the intermediary under paragraph (f)(2)(iv) of this section), legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies.

(ii) *Hospitals and SNFs only.* (A) For assets acquired on or after July 18, 1984 and before December 1, 1997 and not

subject to an enforceable agreement entered into before July 18, 1984, historical cost may not exceed the lowest of the following:

* * * * *

(f) *Gains and losses on disposal of assets*—(1) *General*. Depreciable assets may be disposed of through sale, scrapping, trade-in, exchange, demolition, abandonment, condemnation, fire, theft, or other casualty. If disposal of a depreciable asset, including the sale or scrapping of an asset before December 1, 1997, results in a gain or loss, an adjustment is necessary in the provider's allowable cost. (No gain or loss is recognized on either the sale or the scrapping of an asset that occurs on or after December 1, 1997.) The amount of a gain included in the determination of allowable cost is limited to the amount of depreciation previously included in Medicare allowable costs. The amount of a loss to be included is limited to the undepreciated basis of the asset permitted under the program. The treatment of the gain or loss depends upon the manner of disposition of the asset, as specified in paragraphs (f)(2) through (6) of this section. The gain or loss on the disposition of depreciable assets has no retroactive effect on a proprietary provider's equity capital for years prior to the year of disposition.

(2) *Bona fide sale or scrapping before December 1, 1997*. For the bona fide sale or scrapping of depreciable assets before December 1, 1997, the following apply:

* * * * *

(g) *Establishment of cost basis on purchase of facility as an ongoing operation*.

* * * * *

(4) *Assets acquired by all providers on or after December 1, 1997*. Subject to the provisions of paragraph (b)(1)(i)(A) of this section, the historical cost may not exceed the historical cost of the asset, as recognized under the Medicare program, less depreciation allowed, to the owner of record as of August 5, 1997 (or for an asset not in existence as of August 5, 1997, the first owner of record after August 5, 1997).

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 9, 1997.

Nancy-Ann Min DeParle,
Administrator, Health Care Financing Administration.

Approved: December 31, 1997.

Donna E. Shalala,
Secretary.

[FR Doc. 98-268 Filed 1-8-98; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

[FHWA Docket No. MC-97-5; FHWA-97-2364]

RIN 2125-AD40

Parts and Accessories Necessary for Safe Operation; Glazing in Specified Openings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising its requirements concerning glazing materials, windshield condition, coloring and tinting of windshields and windows, and obstructions to the driver's field of view for commercial motor vehicles operated in interstate commerce. The revision is intended to remove obsolete regulatory language, establish requirements that are more performance-based than the previous requirements, and respond to requests for waivers to allow the use of windshield-mounted transponders. On April 14, 1997, the FHWA published a notice of proposed rulemaking (NPRM) in which the agency proposed general amendments to part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation. The proposed amendments covered a wide range of topics, including the subjects of this rule. Upon review of the docket comments and recent requests for waivers, the agency has decided to issue a final rule on glazing materials, windshields and windows and to publish, at a later date, a final rule on the remaining issues covered in the April 14, 1997, NPRM. As a result of this rulemaking, motor carriers operating under the terms of the March 6, 1995, waiver granted for the ADVANTAGE I-75 and Heavy Vehicle Electronic License Plate, Inc. programs are no longer required to comply with the conditions prescribed by the waiver.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HCS-10, (202) 366-4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1988, the FHWA published a final rule on parts and accessories necessary for safe operation (53 FR 49380). The final rule included amendments to the requirements of 49 CFR part 393 for lamps and reflective devices, brake systems, fuel systems, frames and frame assemblies, suspension systems, steering systems, and axle assemblies. This action was taken to implement sections 206 and 210 of the Motor Carrier Safety Act of 1984 (the Act), 49 U.S.C. 31136 and 31142, and to ensure that commercial motor vehicles are equipped with all parts and accessories considered necessary for safe operation. Since the publication of the final rule, the FHWA has received numerous petitions for rulemaking and requests for interpretation of the requirements of part 393 which have raised the need for additional amendments to clarify several provisions of the 1988 final rule. In addition, the National Highway Traffic Safety Administration (NHTSA), the Federal agency responsible for establishing safety standards for the manufacture of motor vehicles and certain motor vehicle equipment, has made several amendments to its Federal Motor Vehicle Safety Standards (FMVSSs) that necessitate amendments to the FMCSRs in order to eliminate inconsistencies between part 393 and the FMVSSs.

On April 14, 1997, the FHWA published a notice of proposed rulemaking (NPRM) to amend part 393 of the FMCSRs (62 FR 18170). The proposed amendments were intended to remove obsolete and redundant regulations; respond to several petitions for rulemaking; provide improved definitions of vehicle types, systems, and components; resolve inconsistencies between part 393 and the NHTSA's FMVSSs (49 CFR 571); and codify certain FHWA regulatory guidance concerning the requirements of part 393. The comment period was extended to July 28, 1997, at 62 FR 32066 on June 12, 1997.