call (703) 412–9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Tracy Atagi, Office of Solid Waste 5304W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, 703–308–8672, *atagi.tracy@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 3, 2001, EPA published in the **Federal Register** at 66 FR 50332 a direct final rule taking final action on two clarifying revisions to the mixture rule. The first revision reinserts certain exemptions to the mixture rule which were inadvertently deleted. The second revision clarifies that mixtures consisting of certain excluded wastes (commonly referred to as Bevill wastes) and listed hazardous wastes that have been listed solely for the characteristic of ignitability, corrosivity, and/or reactivity, are exempt once the characteristic for which the hazardous waste was listed has been removed.

EPA also published a separate document at 66 FR50379 (October 3, 2001) to serve as the proposal to *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules* if adverse comments were filed. The rule was scheduled to become effective on December 3, 2001 unless EPA received adverse comment by November 2, 2001. However, during and after the comment period for that rule, U.S. mail delivery to all EPA Headquarters offices in Washington, DC and Northern Virginia, including EPA's dockets, was delayed due to concerns about possible contamination. Because of the unexpected and unprecedented nature of this U.S. mail delay and the resulting uncertainty about whether EPA may have received any comments that were sent by U.S. mail, EPA believes that it is in the public interest to temporarily delay the effective date of that direct final rule for sixty days. The purpose of delaying the effective date is to reopen the comment period for thirty days to assure that EPA receives any comments that were submitted by U.S. mail during the comment period but were delayed due to U.S. mail delays.

EPA expects that all delayed mail will be delivered by the end of this thirty-day period. However, to assure that EPA receives the comments, anyone who submitted comments during the comment period for *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules* should resubmit those comments in accordance with the directions in the **ADDRESSES** section of this notice. If EPA receives adverse comment on the direct final rule, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule.

To the extent that this action is subject to 5 U.S.C. 553, EPA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register,** is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Seeking public comment is impracticable and unnecessary in light of the imminent effective date and the extraordinary nature of the delays which affected all U.S. mail directed to EPA Headquarters offices. A brief extension of the effective date is in the public interest because it will assure that all comments are received and that interested parties are not disadvantaged by these unique circumstances.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget and is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 18355, May 22, 2001). In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This action also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it does not alter the relationship or the distribution of power and responsibilities established by applicable statute. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Because this action does not involve technical standards, EPA did not consider the use of any voluntary consensus standards under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note). This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal.

Dated: November 29, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–29958 Filed 11–30–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 411

[CMS–1809–IFC]

RIN 0938–AL29

Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships: Partial Delay of Effective Date

AGENCY: Centers for Medicare & Medicaid Services (CMS), DHHS.

ACTION: Interim final rule with comment period; partial delay in effective date.

SUMMARY: This interim final rule with comment period delays for 1 year the effective date of the last sentence of 42 CFR 411.354(d)(1). Section 411.354(d)(1) was promulgated in the final rule entitled ''Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships,'' published in the **Federal Register** on January 4, 2001 (66

FR 856). A 1-year delay in the effective date of the last sentence in § 411.354(d)(1) will give Department officials the opportunity to reconsider the definition of compensation that is ''set in advance'' as it relates to percentage compensation methodologies in order to avoid unnecessarily disrupting existing contractual arrangements for physician services. Accordingly, the last sentence of § 411.354(d)(1), which would have become effective January 4, 2002, will not become effective until January 6, 2003.

DATES: *Effective date:* The effective date of the last sentence in § 411.354(d)(1) of the final rule published in the **Federal Register** on January 4, 2001 (66 FR 856), is delayed for 1 year, from January 4, 2002 until January 6, 2003.

Comment date: Comments on the length of the delay of the effective date of the last sentence in § 411.354(d)(1) of the January 4, 2001 final rule will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 1, 2002.

ADDRESSES: In commenting, please refer to file code CMS–1809–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Mail written comments (one original and three copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1809–IFC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

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

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for commenters wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late. For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Joanne Sinsheimer, (410) 786–4620.

SUPPLEMENTARY INFORMATION:

Copies: This **Federal Register** document is available from the **Federal Register** online database through *GPO Access,* a service of the U.S. Government Printing Office. The Web site address is: *http://www.access.gpo.gov/nara/index.html.*

In addition, the information in this interim final rule with comment period will be available soon after publication in the **Federal Register** on our MEDLEARN Web site: *www.hcfa.gov/medlearn/refphys.htm.*

I. Background

The final rule, entitled ''Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships,'' published in the **Federal Register** on January 4, 2001 (66 FR 856), interpreted certain provisions of section 1877 of the Social Security Act (the Act). Under section 1877, if a physician or a member of a physician's immediate family has a financial relationship with a health care entity, the physician may not make referrals to that entity for the furnishing of designated health services (DHS) under the Medicare program, and the entity may not bill for the services, unless an exception applies. Many of the statutory and new regulatory exceptions that apply to compensation relationships require that the amount of compensation be ''set in advance.'' Section 411.354(d)(1) of the final rule defines the term ''set in advance.''

The last sentence of § 411.354(d)(1) reads: ''Percentage compensation arrangements do not constitute compensation that is 'set in advance' in which the percentage compensation is based on fluctuating or indeterminate measures or in which the arrangement results in the seller receiving different payment amounts for the same service from the same purchaser.'' Many of the comments we received regarding the January 4, 2001 physician self-referral final rule indicated that physicians are commonly paid for their professional services using a formula that takes into account a percentage of a fluctuating or indeterminate measure (for example, revenues billed or collected for physician services). According to the commenters, this compensation methodology is frequently used by hospitals, physician group practices, academic medical centers, and medical foundations. Several commenters pointed out that this aspect of the final rule, which is applicable to academic medical centers and medical foundations (among others), is inconsistent with the compensation methods permitted under the statute for many physician group practices and employed physicians (that is, neither section 1877(h)(4)(B)(i) of the Act nor section 1877(e)(2) of the Act contains the ''set in advance'' requirement). We understand that hospitals, academic medical centers, medical foundations and other health care entities would have to restructure or renegotiate thousands of physician contracts to comply with the language in § 411.354(d)(1) regarding percentage compensation arrangements.

II. Provisions of This Interim Final Rule With Comment Period

To avoid any unnecessary disruption to existing contractual arrangements while we consider modifying this provision, we are postponing for 1 year the effective date of the last sentence of § 411.354(d)(1). This delay should afford us enough time to reconsider the matter and to publish further guidance on the issue. In the meantime, compensation that is required to be ''set in advance'' for purposes of compliance with section 1877 of the Act may continue to be based on percentage compensation methodologies, including those in which the compensation is based on a percentage of a fluctuating or indeterminate measure. We note that the remaining provisions of § 411.354(d)(1) will still apply and that all other requirements of exceptions must be satisfied (including, for example, the fair market value and ''volume and value'' requirements).

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking and invite public comment on the proposed rule. This procedure can be waived, however, if an agency finds good cause that the notice and comment rulemaking procedure is impracticable, unnecessary, or contrary to the public interest and if the agency incorporates in the rule a statement of such a finding and the reasons supporting that finding.

Our implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B). We find that seeking public comment on this action is impracticable, unnecessary, and contrary to the public interest. We are implementing this delay

of effective date as a result of our review of the public comments that we received on the January 4, 2001 physician self-referral final rule. As discussed above, we understand from those comments that, unless we delay the effective date of the last sentence of § 411.354(d)(1), hospitals, academic medical centers, and other entities will have to renegotiate numerous contracts for physician services, potentially causing significant disruption within the health care industry. We are concerned that the disruption could unnecessarily inconvenience Medicare beneficiaries or interfere with their medical care and treatment. Accordingly, we do not believe that it is in the public interest to offer yet another opportunity for public comment on essentially the same issue in the limited context of whether to delay this sentence of the regulation. In addition, given the imminence of the January 4, 2002 effective date, we find that seeking public comment on this delay in effective date would be impracticable because it would generate uncertainty regarding an imminent effective date. This uncertainty could cause health care providers to renegotiate thousands of contracts with physicians in an effort to comply with the regulation by January 4, 2002 if the proposed delay is not finalized until after the opportunity for public comment. Thus, providing the opportunity for public comment could result in the very disruption that this delay of effective date is intended to avoid.

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; Program No. 93.774, Medicare—Supplementary Medical Insurance Program; and Program No. 93.778, Medical Assistance Program)

Dated: November 5, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: November 19, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–29904 Filed 11–28–01; 3:20 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2880; MM Docket No. 99–259; RM–9685, RM–9775]

Radio Broadcasting Services; Soperton, Swainsboro, and East Dublin, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Lacom Communications, Inc. this document substitutes Channel 251C3 for Channel 251A at Swainsboro, Georgia, reallots Channel 251C3 to East Dublin, Georgia, and modifies the Station WELT license to specify operation on Channel 251C3 at East Dublin, Georgia. *See* 64 FR 39964, published July 23, 1999. In doing so, this document denies a proposal filed by John Morgan Dowdy proposing a Channel 253A allotment at Soperton, Georgia. The reference coordinates for the Channel 251C3 allotment at East Dublin, Georgia, are 32–33–28 and 82–42–10.

DATES: Effective January 2, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in MM Docket No. 99–259, adopted November 14, 2001, and released November 16, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals ll, 445 12th Street, SW., Room CY–B402, Washington, D.C. 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR part 73

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 251A, Swainsboro, and adding East Dublin, Channel 251C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–29873 Filed 11–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2679; MM Docket No. 01–12; RM–10039]

Radio Broadcasting Services; Arthur, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Vision Media, Incorporated, substitutes Channel 280A for Channel 244A at Arthur, North Dakota, and modifies Station WVMI(FM)'s license accordingly. *See* 66 FR 8559, February 1, 2001. Channel 280A can be allotted to Arthur in compliance with the Commission's minimum distance separation requirements with site restriction of 6.35 kilometers (3.94 miles) west at petitioner's requested site. The coordinates for Channel 280A at Arthur are 47–05–42 North Latitude and 97–18–01 West Longitude.

DATES: Effective December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–12, adopted November 7, 001, and released November 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY–B–402, Washington, DC 20554.

List of Subjects in 47 CFR Part 73

Radio broadcasting.