

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Health Care Financing Administration

## 42 CFR Parts 410 and 412

[BPD-878-CN]

RIN 0938-AH55

**Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1998 Rates; Corrections**

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

ACTION: Final rule with comment period; correction notice.

**SUMMARY:** In the August 29, 1997, issue of the **Federal Register** (62 FR 45966), we published a final rule with comment period revising the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement necessary changes resulting from the Balanced Budget Act of 1997, Pub. L. 105-33 and changes arising from our continuing experience with the system. This document corrects technical errors made in that document.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Edwards, (410) 786-4531.

**SUPPLEMENTARY INFORMATION:** The August 29, 1997, final rule with comment period contained technical errors relating to codified regulations text. Therefore, we are making the following corrections:

1. On page 46030, first column, in the amendatory language of item number 17, first line, the phrase "In § 412.108 paragraph (a)(1)" is corrected to read "In § 412.108 the introductory text of paragraph (a)(1)".

2. On page 46037, second column, 26th line, the entry "§ 410.32(b)(1)" is corrected to read "§ 410.32(e)(1)".

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

Dated: September 30, 1997.

**Neil J. Stillman,***Deputy Assistant Secretary for Information Resource Management.*

[FR Doc. 97-26348 Filed 10-3-97; 8:45 am]

BILLING CODE 4120-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Health Care Financing Administration

## 42 CFR Part 418

[BPD-820-CN]

RIN 0938-AG93

**Medicare Program; Hospice Wage Index; Correction**

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

ACTION: Correction notice.

**SUMMARY:** This document corrects the final rule published August 8, 1997 (62 FR 42859), that established a methodology to update the wage index used to adjust Medicare payment rates for hospice care included in the new wage index, to be effective October 1, 1997. This notice corrects the wage index entry for Cherokee, GA.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Carol Blackford, (410) 786-5909.

**SUPPLEMENTARY INFORMATION:** We are making the following correction to the final rule published in the **Federal Register** on August 8, 1997 (62 FR 42859):

On page 42864, in the first column "Urban area (constituent counties or county equivalent)", under Table A, the wage index entry for Cherokee, GA, "0.9841", is corrected to read "0.9822".

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

Dated: September 30, 1997.

**Neil J. Stillman,***Deputy Assistant Secretary for Information Resources Management.*

[FR Doc. 97-26468 Filed 10-3-97; 8:45 am]

BILLING CODE 4120-01-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Parts 2090, 2110, and 2130

[WO-130-1820-00-24 1A]

RIN 1004-AC98

**Gifts; Acquisition of Lands or Interest in Lands by Purchase or Condemnation**

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

**SUMMARY:** BLM is removing the regulations that explain the procedures for donating land to the Department of the Interior, and those that describe the Department's authority to acquire land by purchase or condemnation under the King Range National Conservation Area Act. These regulations are either statements of policy, internal procedures, or restatements of statutory provisions. BLM believes that these regulations can be removed without any substantive impact on the public.

EFFECTIVE DATE: November 5, 1997.

**ADDRESS:** You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Erica Petacchi, telephone: 202-452-5084; or David Beaver, telephone: 202-452-7788.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Final Rule as Adopted
- III. Responses to Comments
- IV. Procedural Matters

**I. Background**

The final rule published today is a stage of a rulemaking process that will conclude in the removal of the regulations in 43 CFR parts 2110 and 2130. This rule finalizes a proposed rule that was published on September 11, 1996, in the **Federal Register** at 61 FR 47853. The rule provided for a comment period of 30 days, and BLM received no comments from the public.

This final rule is part of BLM's efforts to streamline its regulations in the Code of Federal Regulations (CFR). BLM is removing unnecessary or obsolete regulations, and making the remainder of its regulations more understandable and relevant. The regulations this rule removes are repetitive of statutory language, obsolete, or merely informational. These regulations belong not in the CFR, but in other publications such as manuals or brochures.

**II. Final Rule as Adopted**

The final rule will remove the regulations in 43 CFR parts 2110 and 2130, with the exception of section 2111.4—Status of Lands, which will be relocated in subpart 2091.

*Subpart 2110—Gifts; General*

Most of subpart 2110 merely restates statutory provisions found in various sections of the U.S. Code, including two repealed sections. Section 2110.0-3(a) repeats language from the Taylor Grazing Act at 43 U.S.C. 315g. Section 2110.0-3(b) repeats language from the Public Land Administration Act at 43

U.S.C. 1364. Section 2110.0-3(c) repeats language from the King Range Conservation Area Act at 16 U.S.C. 460y. Section 2110.0-3(d) repeats language from the Wild and Scenic Rivers Act at 16 U.S.C. 1277(f).

The only section in subpart 2110 that does not merely repeat statutory language is § 2110.0-1, which states the policy concerning the Secretary of the Interior's discretion to accept gifts of land. Since the non-binding terms of this section do not materially affect the public at large, we are removing this provision to enhance flexible decision-making.

#### *Subpart 2111—Procedures*

We will retain § 2111.4 in 43 CFR subpart 2091, but we are removing the remainder of subpart 2111. Most of the text in subpart 2111 already exists in the BLM Manual/Handbook (H-2101-1), and any aspect not already found in the Manual/Handbook can be incorporated in that publication.

#### *Part 2130—Acquisition of Lands or Interests in Lands by Purchase or Condemnation*

The provisions of 43 CFR part 2130 are unnecessary because they either merely restate statutory language of the King Range Conservation Area Act at 16 U.S.C. 460y, or contain policy directives which should be relocated to the BLM Manual/Handbook.

#### *Subpart 2130—Acquisition of Lands or Interests in Lands by Purchase or Condemnation: General*

Subpart 2130 consists entirely of restatements of the King Range Conservation Area Act, 16 U.S.C. 460y, concerning the authority of the Secretary to purchase and condemn lands.

#### *Subpart 2137—Condemnation of Lands or Interests in Lands*

Subpart 2137 contains two policy statements that should be relocated to the BLM Manual/Handbook: § 2137.0-7 concerns BLM's policy of appraising acquired property, an internal procedure derived from 16 U.S.C. 460y-4(4); and § 2137.0-9 concerns the BLM policy of resorting to eminent domain as a last option.

With the exception of 43 CFR 2111.4, which this rule will relocate to subpart 2091, no portion of either part 2110 or part 2130 contains any necessary substance to guide the public in any meaningful way. The language being removed serves only to guide BLM decisions, or serves no purpose at all. Removing and relocating these sections as described above will streamline the

CFR and enhance BLM's efficiency without affecting the public.

### **III. Responses to Comments**

BLM received no comments from the public, and is therefore adopting the proposed rule without changes.

### **IV. Procedural Matters**

#### *National Environmental Policy Act*

BLM has prepared an environmental assessment (EA) and has found that the rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these documents by contacting us at the addresses listed above (see ADDRESSES).

#### *Paperwork Reduction Act*

This rule contains no information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities.

Based on the analysis contained in this preamble, BLM concludes the rule will not impact the public or small entities because the substance of the regulations only provides guidance to BLM regarding procedures for accepting gifts of land, and acquiring land by purchase or condemnation under the King Range National Conservation Area Act. Because the regulations to be removed do not provide any guidance or mandates to the public, BLM anticipates that the final rule will have no significant impact on the public at large. Therefore, BLM has determined under the RFA that this final rule would not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act*

Removal of 43 CFR parts 2110 and 2130 and the relocation of § 2111.4 will not result in any unfunded mandate to State, local, or tribal governments in the

aggregate, or to the private sector, of \$100 million or more in any one year.

#### *Executive Order 12612*

The final rule will not have a substantial direct effect 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. Therefore, in accordance with Executive Order 12612, BLM has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### *Executive Order 12630*

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of "policies that have takings implications." Since the primary function of the final rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### *Executive Order 12866*

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the final rule is not a significant regulatory action. As such, the final rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

#### *Executive Order 12988*

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **Author**

The principal author of this rule is Erica Petacchi, Bureau of Land Management, 1849 C Street, NW., Room 401LS, Washington, DC 20240; Telephone: 202-452-5084 (Commercial or FTS).

#### **List of Subjects**

##### *43 CFR Part 2090*

Airports, Alaska, Coal, Grazing lands, Indians—lands, Public lands, Public lands—classification, Public lands—

mineral resources, Public lands—  
withdrawal, Seashores.

**43 CFR Part 2110**

Government property, Public lands.

**43 CFR Part 2130**

Public lands.

Dated: September 25, 1997.

**Sylvia V. Baca,**

*Deputy Assistant Secretary, Land and  
Minerals Management.*

For the reasons stated above, and under the authority of 43 U.S.C. 1740, BLM is amending Chapter II of Subtitle B, title 43 of the Code of Federal Regulations as follows:

**PART 2090—[AMENDED]**

1. Revise the authority for part 2090 to read as follows:

**Authority:** 16 U.S.C. 3124; 30 U.S.C. 189; 43 U.S.C. 322, 641, 1201, 1624, 1740.

2. Section 2111.4 of Part 2110 is redesignated as § 2091.8 in Subpart 2091 and is revised to read as follows:

**§ 2091.8 Status of gift lands.**

Upon acceptance by the United States, through the Secretary of the Interior, of a deed of conveyance as a gift, the lands or interests so conveyed will become property of the United States but will not become subject to applicable land and mineral laws of this title unless and until an order to that effect is issued by BLM.

**PART 2110—[REMOVED]**

3. Remove part 2110 in its entirety.

**PART 2130—[REMOVED]**

4. Remove part 2130 in its entirety.

[FR Doc. 97-26457 Filed 10-3-97; 8:45 am]

BILLING CODE 4310-84-P

**FEDERAL COMMUNICATIONS  
COMMISSION**

**47 CFR Part 90**

[PR Docket No. 93-61, FCC 97-305]

**Automatic Vehicle Monitoring Systems**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this *Memorandum Opinion and Order*, the Commission addresses the remaining issues raised by petitioners for reconsideration of its *Report and Order* in PR Docket No. 93-61, 60 FR 15248 (March 23, 1995), which established rules governing the

licensing of the Location and Monitoring Service (LMS) in the 902-928 MHz band. The Commission resolved other issues raised by petitioners in an *Order on Reconsideration* in this docket. 61 FR 18981 (April 30, 1996). This item clarifies interconnection limitations for multilateration LMS, as well as other issues raised on reconsideration, such as operational parameters for non-multilateration systems, treatment of other users of the 902-928 MHz band, the structure of the spectrum allocation plan, the geographic service area for licensing multilateration LMS, and the licensing of wideband forward links. The intended effect of this action is to minimize potential interference within and among users of the 902-928 MHz band.

**EFFECTIVE DATE:** December 5, 1997.

**FOR FURTHER INFORMATION CONTACT:** David Furth or Linda Chang at (202) 418-0620.

**SUPPLEMENTARY INFORMATION:** This *Memorandum Opinion and Order* in PR Docket No. 93-61, adopted August 28, 1997, and released September 16, 1997, is available for public inspection and copying during normal business hours in the FCC Dockets Branch, Room 239, 1919 M Street N.W., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036 (telephone number: (202) 857-3800).

**Synopsis of Memorandum Opinion and Order**

*Introduction and Background*

1. LMS refers to advanced radio technologies designed to support the nation's transportation infrastructure and to facilitate the growth of Intelligent Transportation Systems. In the *LMS Report and Order*, the Commission created a new subpart M in part 90 of the Commission's Rules for Transportation Infrastructure Radio Services (TIRS). LMS, which encompasses the 20-year-old Automatic Vehicle Monitoring Service as well as developing transportation-related services, was deemed to be the first service included within the TIRS category. Parties have requested that the Commission redesignate TIRS as ITSRS, or "Intelligent Transportation Systems Radio Service." These parties contend that the term "Intelligent Transportation System" has become widely accepted by other government agencies and in the private sector, and would be more descriptive of the types of services contemplated for subpart M of part 90.

The Commission is persuaded that it would be appropriate to refer to LMS and like services as Intelligent Transportation Systems Radio Services, and the Commission changes its rules accordingly.

2. In the *LMS Report and Order*, the Commission defined two types of LMS systems—multilateration and non-multilateration. Multilateration LMS systems are designed to locate vehicles or other objects by measuring the difference of time of arrival, or difference in phase, of signals transmitted from a unit to a number of fixed points, or from a number of fixed points to the unit to be located. Such systems generally use spread-spectrum technology to locate vehicles throughout a wide geographic area. The Commission defined non-multilateration systems as LMS systems that employ any technology other than multilateration technology. The Commission noted that unlike a multilateration system, which determines the location of a vehicle or object over a wide area, a typical non-multilateration system uses narrowband technology whereby an electronic device placed in a vehicle transfers information to and/or from that vehicle when the vehicle passes near one of the system's stations.

3. LMS operates in the 902-928 MHz frequency band. The band is allocated for primary use by Federal Government radiolocation systems. Next in order of priority are Industrial, Scientific and Medical (ISM) devices. Federal Government fixed and mobile and LMS systems are secondary to both of these uses. The remaining uses of the 902-928 MHz band include licensed amateur radio operations and unlicensed part 15 equipment, both of which are secondary to all other uses of the band. Part 15 low power devices include, but are not limited to, those used for automatic meter reading, inventory control, package tracking and shipping control, alarm services, local area networks, internet access and cordless telephones. The amateur radio service is used by technically inclined private citizens to engage in self-training, information exchange and radio experimentation. In the *LMS Report and Order*, the Commission recognized the important contribution to the public provided by part 15 technologies and amateur radio operators and sought to develop a band plan that would maximize the ability of these services to coexist with LMS systems.

4. The Commission adopted the *LMS Report and Order* with an eye toward minimizing potential interference within and among the various users of