in the **ADDRESSES** section of this preamble.

VIII. Regulatory Impact Statement

We have examined the impacts 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 of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, all hospitals are considered to be small entities.

Section 1102(b) of the Act, requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 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 of a Metropolitan Statistical Area (MSA) and has fewer than 50 beds.

The implementation of this final rule with comment period will have isolated positive payment impacts in areas whose wage indexes include hospitals receiving wage data revisions as described above. We believe approximately 163 hospitals had zero on Line 28 of Worksheet S–3, Part III, on the May 1998 public use file. In addition, we believe approximately 127 hospitals had zero in either column 3 or 4 (but not both), with nonzero data in the other column, for Lines 2, 4, 6, or 33 of Worksheet S–3, Part III, on the May 1998 public use file. We do not know how many, if any, hospitals may be eligible under the third criterion: the hospital properly requested a wage data revision by March 9, 1998, the fiscal intermediary approved a revision, but the fiscal intermediary or HCFA made a data entry or tabulation error on the May 1998 public use file.

Of the approximately 163 hospitals potentially eligible under the first criterion, there are 59 rural hospitals (located in 15 different States) and 104 urban hospitals (located in 63 different MSAs). Of the approximately 127 hospitals potentially eligible under the second criterion, there are 40 rural hospitals and 87 urban hospitals.

All other hospitals' wage index values are likely to decrease slightly as a result of any revisions under this process. This is because the revisions will likely have the effect of slightly increasing the national average hourly wage ($20.7325 in the July 31, 1998 final rule (63 FR 40973)). Therefore, hospitals in areas without any revisions may experience a slight decrease in their wage index values when their area's unchanged average hourly wage is compared to the higher national average hourly wage.

In addition, as described above in section IV.A., we intend to implement any necessary budget neutrality adjustment at the same time we implement revised wage indexes. The impact of this adjustment will depend on the changes to the hospital wage index. With respect to hospitals in labor market areas whose average hourly wage is not affected, we believe the combined effect of the higher national average hourly wage and budget neutrality will be minimal. We will estimate and publish the entire impacts of payment changes associated with any revisions to hospitals' wage indexes in the subsequent document to this final rule with comment period.

IX. Contract With America Advancement Act (Public Law 104–121)

This rule has been determined to be a major rule as defined in Title 5, United States Code, section 804(2). Although the actual impact of this final rule with comment period cannot be determined prior to reviewing the revision requests, we believe it could range from $0 to $500 million. Ordinarily, under 5 U.S.C. 801, as added by section 251 of Pub. L. 104–121, a major rule shall take effect 60 days after the later of (1) the date a report on the rule is submitted to the Congress or (2) the date the rule is published in the **Federal Register**. However, section 808(2) of Title 5, United States Code, provides that, notwithstanding 5 U.S.C. 801, a major rule shall take effect at such time as the Federal agency promulgating the rule determines, if for good cause the agency finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. As indicated above, for good cause we find that it was impracticable to complete notice and comment procedures before publication of this rule. Accordingly, pursuant to 5 U.S.C. 808(2), this final rule with comment period is effective on November 19, 1998.

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

Dated: October 30, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Approved: November 3, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–30992 Filed 11–17–98; 10:27 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 440 and 441

[HCFA–2060–F]

RIN 0938–AJ05

Medicaid Program; Inpatient Psychiatric Services Benefit for Individuals Under Age 21

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

ACTION: Final rule.

SUMMARY: This final rule amends the CFR by adding a choice of accreditation organizations that a State Medicaid agency may use to fulfill the requirement for Medicaid approval of, and payment to, psychiatric facilities other than psychiatric hospitals or psychiatric units of acute care hospitals, that provide the ''inpatient psychiatric services benefit for individuals under age 21''. In response to comments received on a prior proposed rule, we are retaining the requirement for accreditation of psychiatric facilities, but we are offering alternatives to accreditation by the Joint Commission on Accreditation of Health Care Organizations. Accreditation of psychiatric facilities, other than psychiatric hospitals and psychiatric units in acute care hospitals, could be performed by the Council on Accreditation of Services for Families and Children, the Commission on Accreditation of Rehabilitation Facilities, or any other accrediting body with comparable standards that is recognized by the State. This change is being made while we continue to develop HCFA standards for psychiatric facilities based on our evaluation of the comments that we received on the proposed standards that were published in the NPRM. All of the comments on

the remaining provisions of the proposed rule will be addressed in a second final rule to be published at a future date.

EFFECTIVE DATE: This rule is effective December 21, 1998.

ADDRESSES: *COPIES:* To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

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FOR FURTHER INFORMATION CONTACT: Mary Kay Mullen (410) 786–5480.

SUPPLEMENTARY INFORMATION:

I. Background

Medicaid is the Federally assisted State program authorized under title XIX of the Social Security Act (the Act) to provide funding for medical care provided to certain needy aged, blind and disabled persons, families with dependent children, and low-income pregnant women and children. Each State determines the scope of its program, within limitations and guidelines established by the Act and the implementing regulations at 42 CFR chapter IV, subchapter C. Each State submits a State plan, for our approval, that provides the basis for granting Federal funds to cover part of the expenditures incurred by the State for medical assistance and the administration of the program.

Section 1902(a) of the Act specifies the eligibility requirements that individuals must meet in order to receive Medicaid. Other parts of the Act describe the eligibility groups in detail and specify limitations on what may be paid for as ''medical assistance.''

II. Statutory and Regulatory History

The Social Security Amendments of 1972 (Public Law 92–603) amended the Medicaid statute to, among other things, allow States the option of covering inpatient psychiatric hospital services for individuals under age 21. In this preamble, we will refer to the ''inpatient psychiatric hospital services benefit for individuals under age 21'' as the ''psychiatric/21 benefit.'' Originally the statute required that the psychiatric/21 benefit be provided by psychiatric hospitals that were accredited by the Joint Commission on Accreditation of Hospitals. This organization is now called the Joint Commission on Accreditation of Healthcare Organizations. In this preamble, we will refer to this organization as the ''Joint Commission''.

In 1976, the Social and Rehabilitation Service, one of the Federal agencies that was later part of the merger that formed HCFA, published final regulations in 45 CFR part 249, implementing the psychiatric/21 benefit. These regulations allowed the coverage of this benefit in psychiatric facilities, other than psychiatric hospitals, that were accredited by the Joint Commission. The term ''psychiatric facility'' was used rather than the statutory term ''psychiatric hospital'' because the Joint Commission had modified its accrediting practices to encompass a broader range of settings providing psychiatric services. Since the statute then required Joint Commission accreditation, we wanted to keep our conditions of participation consistent with Joint Commission practices.

In 1981, we received comments from the Joint Commission expressing concern about our regulatory requirement for exclusive Joint Commission accreditation. The Joint Commission indicated that this Federal requirement was in conflict with Joint Commission policy that facilities should seek accreditation voluntarily. In response, we noted that the regulatory requirement for accreditation by the Joint Commission could not be removed because it was required by statute.

The Deficit Reduction Act of 1984 (DRA) amended section 1905(h) of the Act, removing the requirement for Joint Commission accreditation and adding the requirement that providers of the psychiatric/21 benefit meet the definition of a ''psychiatric hospital'' under the Medicare program as specified in section 1861(f) of the Act.

Despite this statutory change, based on our reading of Congressional intent, we did not remove the requirement for Joint Commission accreditation from § 441.151(b). Our reliance on Joint Commission accreditation was the only basis for coverage of the psychiatric/21 benefit in psychiatric facilities other than psychiatric hospitals. Our decision to retain the regulatory requirement for Joint Commission accreditation was based on the fact that, in enacting the 1984 amendment, the Congress gave no indication that it intended to narrow the psychiatric/21 benefit or alter our policy that had been in effect since 1976.

On November 5, 1990, the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), amended section 1905(h) of the Act to specify that the psychiatric/21 benefit can be provided in psychiatric hospitals that meet the definition of that term in section 1861(f) of the Act ''or in another inpatient setting that the Secretary has specified in regulations.'' This amendment, which was effective as if it had been enacted earlier as part of the DRA, affirmed and effectively ratified our preexisting policy as articulated in subpart D of 42 CFR part 441, which interpreted sections 1905(a)(16) and 1905(h) of the Act as not being limited solely to psychiatric hospital settings. OBRA '90 provides our authority to allow other inpatient settings in addition to the psychiatric hospital setting for the psychiatric/21 benefit without continuing to require that providers obtain Joint Commission accreditation.

III. Provisions of the Proposed Rule

In the NPRM, published November 17, 1994 (59–FR–59624) we proposed to delete the existing regulatory requirement for Joint Commission accreditation in § 441.151(b) and to establish HCFA standards that psychiatric facilities other than psychiatric hospitals would have to meet. In response to the many comments on the issue of accreditation that are discussed below, we have reconsidered our position and have retained the accreditation requirement, but we have provided additional accreditation options. Under the new rule we are not requiring the exclusive use of the Joint Commission. We are allowing the option of using additional organizations in order to increase the States' flexibility in the choice of accrediting organizations. We will continue to evaluate the comments on

the proposed standards for facilities that provide the psychiatric/21 benefit and we will publish these comments and responses in a second final rule at a future date.

This final rule revises the requirements in §§ 441.151 and 440.160 only for psychiatric facilities providing the psychiatric/21 benefit. The requirements governing psychiatric hospitals and psychiatric units in acute care hospitals are not changed.

IV. Analysis of and Responses to Public Comments

In the preamble to the proposed rule, we included a history of the requirement for accreditation by the Joint Commission which has been part of the psychiatric/21 benefit since it was first enacted. In the NPRM, we proposed to delete the requirement for Joint Commission accreditation of psychiatric facilities other than psychiatric hospitals from the regulations, since the requirement had been deleted from the statute. The NPRM proposed new HCFA standards for psychiatric facilities other than psychiatric hospitals or psychiatric units of acute care hospitals that provided this benefit. We received a large number of comments on the subject of accreditation, more than on any other issue raised in the proposed rule.

Comment: Most of the commenters stated that the NPRM did not sufficiently acknowledge the value of accreditation by a national body.

Response: We proposed in the NPRM to remove the requirement that providers of the Psychiatric/21 benefit obtain Joint Commission accreditation. Forty eight percent of the 100 commenters stated that the proposed rule gave insufficient attention to the importance and the value that such accreditation can provide. We recognize the value of accreditation as an effective process to measure quality of service provided under this benefit. In response to the concerns of those groups that asked us to retain the requirement for accreditation, we are doing so, but we are also giving states flexibility to choose accrediting bodies for psychiatric facilities that are not psychiatric hospitals or psychiatric units of acute care hospitals that include not only the Joint Commission, but also the Council on Accreditation of Services for Families and Children (COA), the Commission on Accreditation of Rehabilitation Facilities (CARF), or any other accrediting body with comparable standards, that is recognized by the State. We will continue to evaluate the comments received on the proposed HCFA standards.

Comment: Many commenters said that it is inefficient to survey providers that are accredited. Other commenters urged HCFA to encourage States to waive the conditions of participation for providers that are accredited by a national accrediting body. Several other commenters suggested that HCFA allow accreditation by a national organization to serve as a substitute for meeting the proposed HCFA standards. One commenter said that HCFA should not allow States to require accreditation in addition to HCFA standards, because this would create another layer of requirements and entail another survey.

Response: We plan to reevaluate whether imposition of our standards on psychiatric facilities that are not psychiatric hospitals or units of acute care hospitals but are already accredited is necessary to ensure the quality of services provided under this benefit.

Comment: A number of commenters objected to the proposed deletion of the requirement for Joint Commission accreditation, which they referred to as the industry standard of quality.

Response: We are aware that accreditation is recognized by many as a standard of quality and for this reason we are retaining the requirement. However we are offering alternatives to Joint Commission accreditation of psychiatric facilities that are not psychiatric hospitals or units of acute care hospitals by adding COA, CARF, or any other accrediting body, recognized by the State, with comparable standards. As previously stated, this change is necessary while we continue to develop HCFA standards based on the comments we received on the proposed standards that were published in the NPRM.

Comment: A few commenters supported the deletion of the accreditation requirement.

Response: We are continuing to retain the requirement for psychiatric facility accreditation in this final rule while we evaluate the need for HCFA standards based on the comments received on the proposed standards and the relationship of these proposed standards to accreditation.

Comment: One commenter said that if the regulatory requirement is deleted, the State should require Joint Commission accreditation. A few commenters indicated that States should have the option of requiring accreditation if they consider it necessary.

Response: We agree with those commenters who support States having the option of determining what accrediting body will be recognized by the State to accredit psychiatric/21 benefit providers. Accordingly, we have amended language in this final rule to expand accreditation beyond the Joint Commission to include COA, CARF, or any other accrediting body with comparable standards that is recognized by the State.

V. Provisions of the Final Regulations

This final rule, changes §§ 441.151 and 440.160 of the proposed rule, returning it to the current regulatory requirement of accreditation but adding as alternative options to Joint Commission accreditation of psychiatric facilities that are not psychiatric hospitals or psychiatric units of an acute care hospital, accreditation by COA, CARF, or any other accrediting body, recognized by the State, with comparable standards. The remaining provisions of the proposed rule, together with all related comments and responses will be published in a final rule at a future date.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on this issue for the information requirement discussed below.

Section 441.151 General Requirements

Section 441.151(d) states that a psychiatric facility, or an inpatient program in a psychiatric facility, must certify in writing that Medicaid services provided to persons who have reached the age of 22 years are still necessary in the setting in which it will be provided (or is being provided in emergency circumstances) in accordance with § 441.152.

While this IRC is subject to the PRA, we believe that the burden associated

with this ICR is exempt in accordance with 5 CFR 13220.3(b)(2) because the time and effort and financial resources necessary to comply with this requirement would be incurred by persons in the normal course of their activities. These are reasonable and customary State practices and the State would impose this standard for efficient utilization of Medicaid services in the absence of a Federal requirement. Therefore we have assigned one (1) token hour of burden.

We have submitted a copy of this final rule to OMB for its review of the information collection requirement described above. This requirement is not effective until it has been approved by OMB.

If you comment on this information collection requirement, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group Division of HCFA Enterprise Standards Room N2–14–26, 7500 Security Boulevard Baltimore, MD 21244–1850 Attention: Louis Blank, HCFA–2060–F

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attention: Allison Eydt, HCFA Desk Officer

VII. Regulatory Impact Statement

We have examined the impacts of this final rule as required by Executive Order 12866 (EO 12866), the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Public Law 96–354). EO 12866 directs agencies to assess all cost 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. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (100 million or more annually).

Section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This 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 of a Metropolitan Statistical Area and has fewer than 50 beds.

A. The Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million.

B. Regulatory Flexibility Act

The RFA requires us to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, non-profit organizations and governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Intermediaries and carriers are not considered to be small entities.

This is not a major rule and there will be no additional costs to the Medicaid program as a result of this final rule.

For this reason we are not preparing an analysis for either the RFA or section 1102(b) of the Act, since we have determined, and we certify that this final rule would not result in a significant impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals.

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

List of Subjects

42 CFR Part 440

Grant programs—health, Medicaid.

42 CFR Part 441

Family Planning, Grant programs—health, Infants and children, Medicaid, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 42 CFR Chapter IV is amended as follows:

PART 440—SERVICES: GENERAL PROVISIONS

A. Part 440 is amended as follows:

1. The authority citation for part 440 continues to read as follows:

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

2. Section 440.160 is revised to read as follows:

§ 440.160 Inpatient psychiatric services for individuals under age 21.

''Inpatient psychiatric services for individuals under age 21'' means services that—

(a) Are provided under the direction of a physician;

(b) Are provided by—

(1) A psychiatric hospital or an inpatient psychiatric program in a hospital, accredited by the Joint Commission on Accreditation of Healthcare Organizations, or

(2) A psychiatric facility which is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Council on Accreditation of Services for Families and Children, the Commission on Accreditation of Rehabilitation Facilities, or by any other accrediting organization, with comparable standards, that is recognized by the State.

(c) Meet the requirements in § 441.151 of this subchapter.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

B. Part 441 is amended as follows:

1. The authority citation for part 441 continues to read as follows:

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

2. Section 441.151 is amended by revising paragraphs (b) and (c) and adding a new paragraph (d) to read as follows:

§ 441.151 General requirements.

* * * * *

(b) By—

(1) A psychiatric hospital or an inpatient psychiatric program in a hospital, accredited by the Joint Commission on Accreditation of Healthcare Organizations; or

(2) A psychiatric facility which is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, or by any other accrediting organization, with comparable standards that is recognized by the State.

(c) Before the individual reaches age 21 or, if the individual was receiving the services immediately before he or she reached age 21, before the earlier of the following—

(1) The date the individual no longer requires the services; or

(2) the date the individual reaches 22; and

(d) Certified in writing to be necessary in the setting in which it will be

provided (or is being provided in emergency circumstances) in accordance with § 441.152.

(Catalog of Federal Domestic Assistance Program No. 93,778 Medical Assistance Program)

Dated: June 2, 1998.

Nancy-Ann Min Deparle,

Administrator, Health Care Financing Administration.

Dated: August 12, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–30844 Filed 11–18–98; 8:45 am]

BILLING CODE 4120–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 1201

RIN 3045–AA15

Service of Process; Production or Disclosure of Official Material or Information; Correction

AGENCY: Corporation for National and Community Service.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** of Friday, January 30, 1998, (63 FR 4597). The regulations related to service of process and the production or disclosure of official material or information.

DATES: This correcting amendment is effective on November 23, 1998.

FOR FURTHER INFORMATION CONTACT: Britanya Rapp, (202) 606–5000, ext. 258, (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections affect persons who serve in the Office of Inspector General for the Corporation for National Service, and excludes persons who are subject to 5 U.S.C. 6322, those who request or release information under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a, or those who make disclosures to the Office of Inspector General from the scope of the final regulations.

Need for Correction

As published, the final regulations omitted provisions that need to be included to clarify the scope of the regulations.

List of Subjects in 45 CFR Part 1201

Administrative practice and procedure, Courts, Freedom of information.

Accordingly, 45 CFR part 1201 is corrected by making the following correcting amendments:

PART 1201—[AMENDED]

1. The authority citation for part 1201 is revised to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

2. Amend § 1201.2 to add paragraphs (b) and (c) to read as follows:

§ 1201.2 Scope.

* * * * *

(b) Sections 1201.3 through 1201.10 do not apply to:

(1) Testimony or records provided in accordance with the Office of Personnel Management regulations implementing 5 U.S.C. 6322.

(2) Requests for, and release of, records under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

(3) Disclosures to the Office of Inspector General or requests by the Office of Inspector General for official information or records.

(c) The procedures in this part apply to Corporation employees and official information within the Corporation Office of Inspector General. However, any determinations or other actions to be made by the General Counsel under this part, relating to employees or official information within the Office of Inspector General, shall be made by the Inspector General.

Dated: November 13, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–30952 Filed 11–18–98; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 5 and 90

[ET Docket No. 96–256, FCC 98–283]

Revision of the Experimental Radio Service Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission revises the rules, which governs the Experimental Radio Service (ERS). This action will promote technical innovation and new services by encouraging experiments; ensure that experimental licenses do not result in abuse of our processes; eliminate unnecessary and burdensome experimental regulations; and protect public safety frequencies.

EFFECTIVE DATE: January 19, 1999.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket—96–256, FCC 98–283, adopted October 22, 1998, and released October 27, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of the Report and Order

1. The Notice of Proposed Rule Making (Notice), 62 FR 68698, December 30, 1996, in this proceeding, proposed a number of changes to part 5. The Commission noted that Section 303(g) of the Communications Act of 1934, as amended (the Act), authorizes the Commission to provide for experimental use of frequencies and charges the Commission with encouraging the larger and more effective use of radio in the public interest. The Commission further noted that the primary purpose of the ERS is to provide for experimental uses of radio frequencies and for development of techniques and systems that are not otherwise permitted under existing service rules, and that the ERS provides opportunity for manufacturers, inventors, entrepreneurs, and students to experiment with new radio technologies, new equipment designs, characteristics of radio wave propagation, or new service concepts related to the use of the radio spectrum.

2. Additionally, the Commission observed that it last updated its ERS rules in 1983. Since that time, there have been significant changes in services and technologies, and the competitive and rapidly developing telecommunications market has increased the importance of maintaining current and useful rules to govern the ERS. The Commission stated that based on its experience, it believed that the ERS rules should be significantly modified to eliminate unnecessary and burdensome rules and to better promote experimentation, while ensuring that the experimental process is not abused.