

interim rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

Some public comments stated that the proposed rule would violate NEPA. The Coast Guard considered comments that raised environmental concerns with the application of a categorical exclusion. The Coast Guard has reviewed its determination, and concluded that this regulation is properly categorically excluded. The Coast Guard considered the potential environmental impacts of this interim rule and concluded that there were no potential effects that preclude application of the categorical exclusion found at figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C. The "Categorical Exclusion Determination" is available in the docket for inspection or copying as indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Interim Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. Add § 165.1310 to read as follows:

§ 165.1310 Strait of Juan de Fuca and adjacent coastal waters of Northwest Washington; Makah Whale Hunting—Regulated Navigation Area.

(a) The following area is a Regulated Navigation Area (RNA): From 48°10.0' N, 124°42.1' W northward along the mainland shoreline of Washington State to Cape Flattery and thence eastward along the mainland shoreline of Washington State to 48°22' N, 124°34' W; thence due north to 48°24.5' N, 124°34' W; thence northwesterly to 48°27.1' N, 124°41.8' W; thence due west to 48°27.1' N, 124°45.5' W; thence southwesterly to 48°22.7' N, 124°49.3' W; thence southerly along the three nautical mile line to 48°15' N, 124°47.6' W; thence due east back to the shoreline of Washington at 48°15' N, 124°42.1' W. Datum: NAD 1983.

(b) During a whale hunt, while the international numeral pennant five (5) is flown by a Makah whale hunt vessel,

the following area within the RNA is a Moving Exclusion Zone: The column of water from the surface to the seabed with a radius of 500 yards centered on the Makah whale hunt vessel displaying international numeral pennant five (5). This Moving Exclusionary Zone is activated only when surface visibility exceeds one nautical mile, between sunrise and sunset, and the Makah whale hunt vessel displays the international numeral pennant five (5). The Moving Exclusionary Zone is deactivated upon sunset, visibility is reduced to less than one nautical mile, or when the Makah hunt vessel strikes international numeral pennant five (5).

(c) Unless otherwise authorized by the Commander, Thirteenth Coast Guard District or his or her representative, no person or vessel may enter the active Moving Exclusionary Zone except for:

(1) Authorized Makah whale hunt vessel actively engaged in hunting operations under direction of the master of the Makah vessel flying international numeral pennant five (5), and

(2) A single authorized media pool vessel operating in accordance with paragraph (f) of this section.

(d) The international numeral pennant five (5) is only authorized to be displayed from one Makah whale hunt vessel during actual whale hunt operations. No other vessels may display this pennant within the RNA at any time. Whale hunt operations commence when a whale hunt vessel is underway and its master intends to have a whale killed during the voyage. Whale hunt operations cease once this intent is abandoned, a whale is landed, or when the international numeral pennant five (5) is struck.

(e) The Makah Tribe shall make SECURITE Broadcasts beginning one hour before the commencement of a hunt and every half hour thereafter until hunting activities are concluded. This broadcast shall be made on channel 16 VHF-FM and state:

A whale hunt is proceeding today within the Regulated Navigation Area established for Makah whaling activities. The (name of vessel) is a (color and description of vessel) and will be flying international numeral pennant five (5) while engaged in whaling operations. This pennant is yellow and blue in color. Mariners are required by federal regulations to stay 500 yards away from (name of vessel), and are strongly urged to remain even further away from whale hunt activities as an additional safety measure.

(f)(1) Credentialed members of the media interested in entering the Moving Exclusionary Zone may request permission to operate a single media vessel in the Moving Exclusionary Zone by telephoning Coast Guard Public

Affairs, as soon as practicable at (206) 220-7237 during normal working hours, and (206) 220-7001 after hours. Coast Guard preauthorization is required prior to entry into the Moving Exclusionary Zone by a single media pool vessel.

(2) The media pool vessel must be a U.S. documented vessel. The media pool vessel must be under command at all times within the Moving Exclusionary zone by a master licensed in the U.S. to carry passenger for hire. All expenses, liabilities and risks associated with operation of the media pool vessel lie with members of the pool and the pool vessel owners and operators.

(3) The master of the media pool vessel shall maneuver to avoid positioning the pool vessel between whales and hunt vessel(s), out of the line of fire, at a prudent distance and location relative to whale hunt operations, and in a manner that avoids hindering the hunt or path of the whale in any way.

(4) Although permitted to maneuver within the Moving Exclusionary Zone, personnel aboard the media pool vessel are still required to follow safety and law enforcement related instructions of Coast Guard personnel.

Dated: September 24, 1998.

Paul M. Blainey,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 98-26340 Filed 9-28-98; 4:55 pm]

BILLING CODE 4910-15-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 980713170-8247-02]

RIN 0651-AA96

Revision of Patent Fees for Fiscal Year 1999

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; Delay of effective date.

SUMMARY: The Patent and Trademark Office (PTO) published a final rule in the **Federal Register** of July 24, 1998, that revised certain patent fee amounts for fiscal year 1999. Since then, a continuing resolution appropriations bill has been passed by the Congress and signed by the President. The continuing resolution maintains patent fees at their September 1998 (fiscal year 1998) rates through October 9, 1998. This document delays the effective date

of the PTO's final rule until October 10, 1998, unless it is superseded by law.

DATES: The effective date of the final rule published at 63 FR 46891, July 24, 1998, and corrected at 63 FR 46981, September 3, 1998, is delayed until October 10, 1998, unless it is superseded by law. If this date is superseded by law, PTO will publish further notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by telephone at (703) 305-8051, fax at (703) 305-8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office (PTO) published a final rule in the **Federal Register** of July 24, 1998, that revised certain patent fee amounts for fiscal year 1999 (63 FR 39731). See also 63 FR 46891 (September 3, 1998) (correcting one of the fee amounts specified in the July 24, 1998 final rule). Since then, a continuing resolution appropriations bill was passed by the Congress and signed by the President on September 25, 1998. See H.J. Res. 128, P.L. 105-240 (1998). It maintains patent fees at their September 1998 (fiscal year 1998) rates through the period of the continuing resolution enacted on September 25, 1998, which expires October 9, 1998. The continuing resolution supersedes the July 24, 1998, final rule on revision of patent fees for fiscal year 1999. Accordingly, this notice delays the effective date of the final rule until October 10, 1998. Additional continuing resolutions could further extend the fiscal year 1998 fee rates into fiscal year 1999.

Legislation is still pending in the Congress to set new patent fees for fiscal year 1999. If an appropriations or authorization bill authorizing new patent fees is enacted prior to the expiration of a continuing resolution, it will supersede the continuing resolution. Patent customers should refer to the official PTO website (www.uspto.gov), or call the PTO General Information Services Division at (703) 308-4357 or (800) PTO-9199, for the most current fee amounts and information.

Dated: September 28, 1998.

Bruce A. Lehman,

*Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks.*
[FR Doc. 98-26428 Filed 9-30-98; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Health Care Financing Administration

42 CFR Parts 400, 403, 410, 411, 417, and 422

[HCFA-1030-CN]

RIN 0938-A129

Medicare Program; Establishment of the Medicare+Choice Program

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

ACTION: Correction of interim final rule with comment period.

SUMMARY: On June 26, 1998, we published in the **Federal Register**, at 63 FR 34968, an interim final rule with comment period that explains and implements those provisions of the Balanced Budget Act of 1997 that established the Medicare+Choice program. This notice corrects errors made in the June 26 document.

EFFECTIVE DATE: July 27, 1998.

FOR FURTHER INFORMATION CONTACT: Anthony Culotta (410) 786-4661.

SUPPLEMENTARY INFORMATION:

Background

In drafting **Federal Register** Document 98-16731, we attempted to avoid setting forth identical provisions in two CFR parts. Our plan was to replace certain existing provisions in part 417 with a cross-reference to identical (in effect, if not wording) provisions being established in part 422. In doing this, however, we inadvertently and incorrectly applied the marketing activity provisions of § 422.80 and the beneficiary appeals and grievance procedures of subpart M of part 422 to health maintenance organizations and competitive medical plans with contracts under section 1876 of the Social Security Act (the Act). This notice corrects this error by removing amendatory items 5, 10, and 11. Thus organizations with contracts under section 1876 of the Act remain subject to subpart K, which includes marketing, and subpart Q, which includes beneficiary appeals, of part 417.

In some cases, an M+C organization that has both a Medicare contract and a contract with an employer group health plan arranges for the employer to process election forms for Medicare-entitled group members who wish to enroll under the Medicare contract. However, there can be a delay between the time the beneficiary enrolls through the employer and he or she becomes entitled to receive services from the

M+C organization, and when the election form is actually received by the M+C organization. The statute at section 1853(a)(2)(B) of the Act allows for adjustments in payment to account for these situations. We inadvertently failed to address this situation in the June 26, 1998, interim final rule. This notice corrects that by adding §§ 422.60(f) and 422.66(f), and revising § 422.250(b) to allow for adjustments in effective dates to conform with the payment adjustments.

We inadvertently omitted the statutory limitation at section 1854(a)(5)(A) of the Act on cost sharing for supplemental benefits offered by M+C private fee-for-service plans. Therefore, we are correcting § 422.308(b) by adding that, for supplemental benefits, the actuarial value of its cost-sharing may not exceed the amounts approved in the ACR for those benefits, as determined under § 422.310 on an annual basis. Also, to clarify that additional adjustments are not limited to a reduction in the adjusted community rate "in addition" was added to the beginning of the second sentence of § 422.310(c)(4).

In addition, we are also making a number of clarifying changes and technical corrections to paragraph designations and cross-references.

Correction of Errors

Preamble

1. On page 34984, in column 3, in the first full paragraph, in the ninth line, "1854(h)(4)" is corrected to read "1851(h)(4)".
2. On page 35011, in column 2, in the heading of section I.1, "\$ 422.500" is corrected to read "\$ 422.400".
3. On page 35012, in column 1, in the heading of section I.2, "\$ 422.502" is corrected to read "\$ 422.402".
4. On page 35034, in column 2, in the third full paragraph, in the 14th line, "\$ 422.58(d)(2)" is corrected to read "\$ 422.62(b)".
5. On page 35034, in column 3, 22 lines from the top of the column, "\$ 422.110(b)(2)(ii)" is corrected to read "\$ 422.111(b)(2)(ii)".
6. On page 35034, in column 3, in the heading of section D.1, "\$ 422.102" is corrected to read "\$ 422.103".
7. On page 35034, in column 3, in the first full paragraph, in the first line, "\$ 422.102" is corrected to read "\$ 422.103".
8. On page 35034, in column 3, in the first full paragraph, in the fifth line, "\$ 422.102(a)" is corrected to read "\$ 422.103(a)".
9. On page 35034, in column 3, in the second full paragraph, in the first line,