

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
*	*	<p>(A) If, at any time after disposal of the delisted waste, Saturn possesses or is otherwise made aware of any data (including but not limited to leachate data or ground-water monitoring data) relevant to the delisted WWTP sludge at Saturn indicating that any constituent is at a level in the leachate higher than the specified delisting level or TCLP regulatory level, then Saturn must report the data, in writing, to the Regional Administrator within ten (10) days of first possessing or being made aware of that data.</p> <p>(B) Based upon the information described in Paragraph (A) and any other information received from any source, the EPA Regional Administrator will make a preliminary determination as to whether the reported information requires EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.</p> <p>(C) If the Regional Administrator determines that the reported information does require EPA action, the Regional Administrator will notify Saturn in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notification shall include a statement of the proposed action and a statement providing Saturn with an opportunity to present information as to why the proposed EPA action is not necessary. Saturn shall have ten (10) days from the date of the Regional Administrator's notice to present the information.</p> <p>(D) Following the receipt of information from Saturn, or if Saturn presents no further information after 10 days, the Regional Administrator will issue a final written determination describing the EPA actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.</p> <p>8. Notification Requirements: Before transporting the delisted waste, Saturn must provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted WWTP sludge for disposal. The notification will be updated if Saturn transports the delisted WWTP sludge to a different disposal facility. Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.</p>
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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Resources and Services Administration**

**42 CFR Part 50**

**RIN 0906-AA69**

**Simplification of the Grant Appeals Process**

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services (HHS) is amending regulations to remove the Health Resources and Services Administration (HRSA) from the list of agencies which require grantees to utilize an informal appeals procedure for grant related disputes subject to the departmental appeal procedures. In doing so, HRSA will simplify the appeals procedure for aggrieved HRSA grantees by permitting them direct access to the Departmental Grant Appeals Board.

**DATES:** This final rule is effective 30 days after December 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** Gail Lipton, Director, Division of Grants Policy, HRSA, Room 11A-55, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

**SUPPLEMENTARY INFORMATION:** When HHS first established its Departmental Grant Appeals Board (now the Departmental Appeals Board), there was no provision for the Department's subordinate agencies to first review the disputed actions of officials prior to appeal at the Departmental level. However, it quickly became apparent that a number of disputes could, and would, be resolved quickly by informal means if the grantees' complaints were surfaced to management levels within the HHS subordinate agencies. As a result, the regulations at 45 CFR part 16 were revised to permit subordinate agencies to interpose an "informal" level of appeal prior to submission of an appeal to the Departmental Appeals Board. Various agencies in the Public Health Service (which has since been reorganized) instituted an intermediate informal review process as is currently described in 42 CFR part 50, subpart D. The intermediate level of appeal

provided these agencies with an opportunity to relatively quickly and economically reverse erroneous Federal decisions, or to reassure grantees that a decision adverse to them was indeed an "agency" decision. At the time these regulations were instituted, this informal process was of significant benefit to both grantees and the subordinate agencies. Based on the lessons learned from this process and other means, HRSA instituted a policy of reviewing carefully the adverse determinations of their employees prior to permitting them to be issued so as to avoid erroneous determinations which would be subject to reversal upon appeal at the informal level. HRSA believes that it has reached the point where the adverse determinations being issued in recent years generally represent its best judgment.

HHS therefore believes that, for these agencies and their grantees, this informal process is no longer of benefit, and the cost in time and expense to the grantee is no longer warranted. Consequently, HHS proposed amending 42 CFR part 50, subpart D, to remove HRSA from the list of agencies to which the regulations apply. As a result, under this proposal, grantees wishing to

appeal HRSA's eligible adverse determinations would be entitled to appeal such determinations directly to the Departmental Appeals Board.

We announced our plans to amend the current regulations in a notice of proposed rulemaking (NPRM) published in the **Federal Register**, June 7, 2005 (70 FR 33053–33054). The NPRM provide for a sixty-day comment period. We received no comments. Consequently, the final rule is the same as the proposed rule published in June of this year.

We provide the following information for the public.

#### Executive Order 12866

Executive Order (EO) 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits. We have determined that the rule is not a significant regulatory action under Section 3(f) of the EO and does not require an assessment of the potential costs and benefits under section 6(a)(3) of that EO. Under the EO, the Office of Management and Budget (OMB) has exempted it from review.

#### Regulatory Flexibility

The Regulatory Flexibility Act (5 U.S.C. Chapter 6) requires that regulatory actions be analyzed to determine whether they will have a significant impact on a substantial number of small entities. We have determined that this is not a "major" rule under this Act and therefore does not require a regulatory flexibility analysis.

#### Unfunded Mandates

The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by States, local or tribal governments, or by the private sector of \$100 million or more in any given year. This rule does not have cost implications for the economy of \$100 million or more, nor otherwise meet the criteria for a major rule under Executive Order 12291, and therefore does not require a regulation impact analysis.

#### Executive Order 13132

Executive Order 13132 requires that Federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. We received no comments.

#### Executive Order 13175

Executive Order 13175 requires the Department to develop an accountable process to ensure A meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." We received no comments.

#### Paperwork Reduction Act

There are no new paperwork requirements subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1995.

#### List of Subjects in 42 CFR Part 50

Administrative practice and procedure, Grant programs—health, Health care.

Dated: October 11, 2005.

**Elizabeth M. Duke,**

*Administrator, Health Resources and Services Administration.*

Approved: December 14, 2005.

**Michael O. Leavitt,**

*Secretary of Health and Human Services.*

■ Accordingly, HRSA amends 42 CFR part 50 as follows:

#### PART 50—[AMENDED]

##### Subpart D—Public Health Service Grant Appeals Procedure

■ 1. The authority citation for part 50, subpart D, continues to read as follows:

**Authority:** Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); 45 CFR 16.3 (c).

■ 2. Section 50.402 is revised to read as follows:

##### § 50.402 To what program do these regulations apply?

This subpart applies to all grant and cooperative agreement programs, except block grants, which are administered by the National Institutes of Health; The Centers for Disease Control and Prevention; the Agency for Toxic Substances and Disease Registry; the Food and Drug Administration; and the Office of Public Health and Science. For purposes of this subpart, these entities are hereinafter referred to as "agencies."

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Medicare & Medicaid Services

#### 42 CFR Part 418

[CMS–1286–CN2]

RIN 0938–AN89

#### Medicare Program; Hospice Wage Index for Fiscal Year 2006

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

**ACTION:** Final rule, correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 4, 2005, entitled "Hospice Wage Index for Fiscal Year 2006."

**EFFECTIVE DATE:** This notice is effective on October 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Terri Deutsch, (410) 786–9462.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 4, 2005, we published a final rule entitled, "Hospice Wage Index for Fiscal Year 2006 (**Federal Register** Doc. 05–15290, 70 FR 45130). On September 30, 2005, we published a correction notice (**Federal Register** Doc. 05–19609, 70 FR 57174) to correct a number of technical errors that had appeared in the final rule. Based on further review of the August 2005 final rule, we are correcting additional typographical and formatting errors that appeared in Table A and C of the addendum. Specifically, in Table A of the addendum, we are correcting the asterisk that corresponds to the footnotes that appear at the end of the table, as appropriate. We are correcting the wage index values for CBSA codes where the numerical numbers contained typographical errors or where numbers were transposed. In addition, in Table C of the addendum, we are correcting the wage index value figures for the CBSA code 24780, Pitt County, NC, and the CBSA code for 32820, Crittenden County, TN.

This correction notice is consistent with the published hospice wage index values used to make payment as of October 1, 2005. In section II below, we provide a description of the errors and the changes being made to correct the errors.