Aviation Regulations (14 CFR part 71) to realign three Federal airways, V–19, V–148, and V–263, because of the commissioning of the Byers, CO, VOR/DME. This proposal would enhance air traffic procedures. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Domestic VOR Federal airways listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–19 [Revised]

From Newman, TX, via INT Newman 286° and Truth or Consequences, NM, 159° radials; Truth or Consequences; INT Truth or Consequences 028° and Socorro, NM, 189° radials; Socorro; Albuquerque, NM; INT Albuquerque 036° and Santa Fe, NM, 245° radials; Santa Fe; Las Vegas, NM; Cimarron, NM; Pueblo, CO; Colorado Springs, CO; INT Colorado Springs 036° and Byers, CO, 211°T(201°M) radials; Byers; Gill, CO; Cheyenne, WY; Muddy Mountain, WY; 5 miles, 45 miles 71 MSL, Crazy Woman, WY; Sheridan, WY; Billings, MT; 38 miles 72 MSL, INT Billings 347° and Lewistown, MT, 104° radials; Lewistown; INT Lewistown 322° and Havre, MT, 226° radials; to Havre.

* * * * *

V–148 [Revised]

From Falcon, CO; Byers, CO; Thurman, CO; 65 MSL INT Thurman 067° and Hayes Center, NE, 246° radials; Hayes Center; North Platte, NE; O'Neill, NE; Sioux Falls, SD; Redwood Falls, MN; Gopher, MN; Hayward, WI; Ironwood, MI; to Houghton, MI.

* * * * *

V–263 [Revised]

From Corona, NM, INT Corona 278° and Albuquerque, NM, 160° radials; Albuquerque; INT Albuquerque 019° and Santa Fe, NM, 268° radials; Santa Fe; Las Vegas, NM; Cimarron, NM; Tobe, CO; 54 miles 69 MSL; Lamar, CO; 17 miles 63 MSL; Hugo, CO; Byers, CO; to Akron. From Pierre, SD; Aberdeen, SD.

* * * * *

Issued in Washington, DC, on July 26, 1995.

Reginald C. Matthews

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 95–18914 Filed 8–1–95; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–019A]

RIN 1218–AA51

Permit-Required Confined Spaces

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of informal public hearing; reopening of public comment period; correction.

SUMMARY: This notice schedules an informal public hearing concerning OSHA's proposal (59 FR 60735) to modify the existing rescue provisions of the standard (§ 1910.146) covering entry into permit-required confined spaces. The Agency requests that interested parties present testimony and evidence regarding the issues raised by the proposed revision and by this hearing notice. This notice also reopens the public comment period and corrects an error in the proposed revision.

DATES: An informal public hearing will begin at 9 a.m. on September 27, 1995 and on each succeeding day.

Notices of intention to appear at the informal public hearing, along with all testimony and evidence which will be introduced into the hearing record, must be postmarked by September 13, 1995.

Comments must be postmarked by September 13, 1995.

ADDRESSES: Notices of intention to appear at the hearing and testimony and documentary evidence which will be introduced into the hearing record must be submitted in quadruplicate to Mr. Tom Hall, Occupational Safety and Health Administration, Division of Consumer Affairs, room N3647, 200 Constitution Avenue N.W., Washington, D.C. 20210, telephone (202) 219–8615.

The informal public hearing will be held in the Frances Perkins Building auditorium, U.S. Department of Labor, 200 Constitution Avenue N.W., 20210.

FOR FURTHER INFORMATION CONTACT: *Hearings:* Mr. Tom Hall, Occupational Safety and Health Administration, Division of Consumer Affairs, room N3647, 200 Constitution Avenue N.W., Washington, D.C. 20210, telephone (202) 219–8615. *Proposal:* Mr. Richard E. Liblong, Office of Information, Division of Consumer Affairs, U.S. Department of Labor, room N3647, 200 Constitution Avenue N.W., Washington, D.C. 20210, telephone (202) 219–8151.

SUPPLEMENTARY INFORMATION: On January 14, 1993, the Occupational Safety and Health Administration (OSHA) issued a General Industry standard (§ 1910.146) to require protection for employees who enter permit-required confined spaces (permit spaces). The permit space standard, which provides a comprehensive regulatory framework for the safe performance of entry operations, became effective on April 15, 1995.

On March 15, 1993, the United Steelworkers of America (USWA) petitioned the United States Court of Appeals for the 11th Circuit for judicial review of § 1910.146. In particular, the USWA contended that § 1910.146(k)(2), which addresses the use of off-site rescue services, was vague and ineffective. The USWA also stated that OSHA had inappropriately omitted both a requirement for testing or monitoring performed to comply with the standard and a requirement for employees to

have access to testing or monitoring results.

Based on discussions with the USWA, OSHA agreed to initiate further rulemaking, issuing a notice of proposed rulemaking (NPRM) (59 FR 60735) on November 28, 1994. The proposed revisions to § 1910.146(k)(2) more clearly express what the Agency intended when it promulgated the permit space standard. They state specifically that host employers must ensure that prospective rescuers who are not employees of the host employer are able to respond to a rescue summons in a timely manner and are equipped and trained to perform permit space rescues at the host employer's facility.

In addition, based on information received subsequent to the promulgation of § 1910.146, OSHA proposed to make § 1910.146(k)(3)(i), which deals with the point of attachment for a retrieval line, more performance-oriented by allowing any point of attachment which enables the entrant's body to present the smallest possible profile during retrieval.

Also, the Agency asked for public input on the USWA's suggestion that OSHA add provisions which would require that employers provide for employee observation of permit space testing or monitoring, and that employers also provide employee access to the results of permit space testing or monitoring.

The NPRM set a 90 day comment period, ending on February 27, 1995, to receive written comments on the proposed revisions and the issues raised. OSHA received 51 written comments (Exs. 161–1 through 161–51). Several commenters (Ex. 161–21, 161–22, 161–38, 161–40, 161–44) required that OSHA convene an informal public hearing to address their concerns. The comments received in response to the proposed revision and issues raised are available for inspection and copying in the OSHA Docket Office, Docket No. S–019A, room N2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Based on the response to the NPRM, OSHA has decided to convene an informal public hearing, beginning on September 27, 1995, and to reopen the comment period to obtain public input regarding the need to more clearly express a host employer's responsibility to assess a prospective rescue service's capabilities (i.e., is equipped, trained, and can respond in a timely manner) and regarding the need for employee participation in testing and monitoring. The Agency requests that hearing participants and commenters provide supporting information for any recommendations, so OSHA can adequately assess these materials when drafting the final rule for this rulemaking.

Rescue and Emergency Services

Existing paragraph (k)(1) sets requirements for employers who have their own employees enter permit spaces to provide rescue and emergency services. The criteria set by this paragraph are designed to protect such employees from permit space hazards and to maximize their ability to provide effective rescue and emergency services. Paragraph (k)(1) applies both to rescuers employed by employers who are conducting permit space operations and to rescuers employed by outside rescue services, insofar as such employers are regulated by OSHA (State and local government employees in non-State Plan States are not covered).

OSHA's experience indicates that many employers who conduct permit space operations rely on off-site rescue services, such as those provided by local fire departments, in lieu of establishing an adequate rescue capability using their own employees. The Agency has acknowledged that there are circumstances where it is reasonable for ''host employers'' to rely on persons other than their own employees to provide rescue and emergency services. Accordingly, existing paragraph (k)(2) sets criteria for the use of such ''outside'' rescue and emergency services.

In particular, the host employer must provide the ''outside rescuers'' with pertinent information about the identified permit space hazards and give them access to any permit space from which rescue may be necessary, so that the rescue service can develop appropriate rescue plans and can practice performing rescues.

Pursuant to §§ 1910.146(d)(9) and (f)(11), the host employer is currently required to establish effective means of summoning rescuers and document those means in the entry permit. Unless non-entry rescue procedures have been implemented or the potential rescuers are standing by as entry operations proceed, some time will pass between the transmittal of the rescue summons and the retrieval of an entrant. OSHA expects affected employers to make arrangements for rescue which maximize the likelihood that entrants will be retrieved safely while minimizing the risks for potential rescuers.

However, in response to a submission (Ex. 1) from the United Steelworkers of America (USWA), the Agency has acknowledged (59 FR 60736) that the final rule may not have been sufficiently clear as to a ''host'' employer's responsibility for the performance of ''outside'' rescue services. Accordingly, the Agency has proposed to revise § 1910.146(k)(2) so the standard clearly indicates that ''host'' employers are required to retain rescue services that can respond adequately and in a timely fashion when summoned to perform rescues.

In response, some commenters (Exs. 161–9, 161–13, 161–31, 161–42 and 161–50) expressed support for the proposed revisions as the appropriate means to ensure that rescue services performed adequately. Those commenters indicated that compliance would pose no difficulties.

On the other hand, several commenters (Exs. 161–1, 161–2, 161–5, 161–6, 161–11 and 161–33) expressed concern that the proposed language appears to rule out the use of outside rescue services. Those commenters stated that OSHA should not discourage the use of off-site rescue services because there will be situations where affected employers have no viable alternative to relying on those services. Furthermore, those commenters have indicated that an ''off-site'' rescue service summoned by a ''host'' employer might well be able to respond at least as quickly and effectively as an ''on-site'' resuce service set up by the employer conducting entry operations.

One commenter (Ex. 161–1) expressed concern that ''[a]doption of this section as stated may force small inexperienced employers into establishing in-house resuce teams with little or no practical training.'' In addition, a commenter (Ex. 161–6) stated that ''[o]n-site rescue teams are usually comprised of electricians, pipefitters, maintenance workers and other craftspeople where rescue is a sideline. Whereas most on-site teams are only given a minimal amount of time to train, many off-site technical rescue teams do nothing but train for and run fire and rescue calls.'' However, another commenter (Ex. 161–40) stated that on-site employees, properly trained and equipped, would perform better than off-site rescue services, because on-site personnel would be familiar with the facility and closer to the spaces being entered.

In addition, the USWA (Ex. 161–38) commented as follows:

> In our June 22, 1993 letter, the USWA expressed concern that the provisions of the standard (primarily paragraph (k)(2)) allowing off-site rescue services were vague and ineffective. In subsequent discussions with OSHA and the DOL solicitors, we argued that only an on-site rescue service could respond in time to save the life of an

entrant overcome by a hazardous atmosphere, trapped by an engulfing liquid or solid, or critically injured by some other confined space hazard. We also pointed out that the standard imposes a number of requirements on on-site rescue services, but not on off-site services, thus giving employers an unwarranted incentive to choose off-site services.

Subsequent discussions with employers and professional rescue services, along with comments submitted to this docket [S–019A] by other parties, have caused us to modify that position. We remain skeptical that an off-site service can respond rapidly enough in most circumstances. We are, however, willing to admit the possibility. In addition, the mere fact that a rescue service is maintained on site is no guarantee that the service will reach the scene of an emergency on time, especially in a very large plant. Accordingly, we would support a performance-based approach to this issue, so long as the desired performance was spelled out with sufficient specificity, and so long as it applied to both on-site and off-site rescue services.

A number of commenters (Exs. 161–1, 161–14, 161–20, and 161–29) suggested that the Agency drop the proposed revisions to § 1910.146(k). For example, a commenter (Ex. 161–35) stated that the proposed revision ''places the host employer in an unenviable position of being held accountable for the performance of specified employee activities over which the host employer has no control.'' In addition, a commenter (Ex. 161–20) indicated that the rationale behind the proposed revisions failed to take into account the application of the requirements in existing § 1910.146(k)(1) to all employers (except some public sector employers) who send employees into permit spaces to perform rescues. That commenter also stated as follows:

> Many employers will use off-site services because they do not have the specialized rescue training and experience of these organizations. If a host employer is utilizing the outside rescuer because it does not have the expertise to maintain a team in-house, how can the host determine, let alone be held accountable as to whether that expertise is ''functioning appropriately''? [emphasis in original]

Other commenters (Ex. 161–26, 161–37, 161–42, 161–46) suggested that any revision of existing § 1910.146(k) be limited to providing clear guidance regarding how to assess the relative merits of on-site and off-site options, and set performance criteria that would apply to *all* rescue services. These commenters were primarily concerned that the Agency apply the same criteria to all rescuers, whether on-site or off-site.

For example, several commenters (Exs. 161–23, 161–30, 161–38 and 161–45) asked that the Agency indicate clearly what constitutes ''timely'' response to a rescue summons. Some commenters. (Exs. 161–2, 161–6, 161–7 and 161–26) noted that rescuer proficiency was as important as the response time and suggested that OSHA set performance criteria for assessing the timeliness of response. Another commenter (Ex. 161–38) suggested that employers be required to have rescuers arrive within *four* minutes of summons where entrant has been exposed to atmospheric or engulfment hazards, and within *10* minutes otherwise.

One commenter (Ex. 161–25) stated as follows:

> Even with well trained rescue personnel on-site, extracting an incapacitated person from a confined space while attempting to adminster first aid is not a quick process. Therefore, the fact that rescue capability happens to be off-site and perhaps is unfamiliar with the site's confined spaces may have little impact on the ultimate outcome of such an incident.

Another commenter (Ex. 161–39) recognized that a rescue service which responds to a permit space accident within four minutes will still need time to prepare for entry, making it ''impossible for an outside rescue service to * * * have oxygen to the patient within four minutes.'' However, that commenter stated ''if the rescuers can get to the patient close to this four-minute time frame, then a rescue may still be possible.''

Other commenters (Exs. 161–14, 161–20, 161–28 and 161–33) stated that OSHA should not attempt to specify what constitutes ''timeliness'' because the existing standard provides sufficient guidance regarding how to assess the adequacy of rescuer response in a specific situation. For example, a commenter (Ex. 161–33) stated as follows:

> After careful deliberation, the Agency properly rejected any attempt to incorporate a timeliness requirement into the standard. Rather than adopting a timeliness requirement which would be infeasible, would encourage conduct likely to endanger rescuers, and inevitably would be subject to inconsistent enforcement through subjective (if not arbitrary) 20–20 hindsight, the Agency concluded ''that prevention of emergencies in permit spaces is the most effective approach to this problem.'' 58 FR 4527/1.

The Agency recognizes that permit space hazards vary in their capacity to kill or permanently injure employees and that what constitutes ''timely'' rescue will vary accordingly. A commenter (Ex. 161–6) has indicated that immediate rescue is not always imperative, because a slightly hypoxic environment may disable an entrant without creating a risk of permanent brain damage. Another commenter (Ex. 161–38) took issue with that comment, stating that OSHA must require rescue within the first few minutes, because the Agency cannot assume an environment is only slightly hypoxic.

Some atmospheric hazards can cause death or permanent injury within four to six minutes. However, rescuers responding from outside of the immediate area of the entry space would usually not be able to begin a rescue in four to six minutes. Therefore, the only way rescuers could successfully retrieve entrants under such circumstances would be to have personnel present and prepared to initiate rescue throughout the period of entry operations. One commenter (Ex. 161–33) has stated that the proposed rule appears to require ''a rescue team to be standing by immediately outside every space during every entry.'' The commenter indicated that such a measure would be inappropriate where there was ''non-emergency entry into a permit space.''

As stated both in the NPRM and elsewhere in this notice, OSHA intended this rulemaking simply to clarify the existing requirements of § 1910.146(k)(2). In particular, the Agency has attempted to indicate clearly that an employer who retains an off-site rescue and emergency service must ensure that the designated service has the equipment, training and overall ability to respond in a timely fashion when summoned to rescue a permit space entrant. OSHA does not thereby intend to require that host employers ''guarantee'' the performance of off-site services, to make compliance more burdensome for off-site services than for on-site services, or to prevent the use of off-site services. The Agency has consistently maintained that the purpose of § 1910.146(k) is to require that employers' provisions for rescue, by whatever means, are adequate. The proposed amendment to § 1910.146(k)(2) (59 FR 60735) was intended solely to clarify the original intent of that paragraph.

As amended, paragraph (k)(2) would read as follows:

> (2) When an employer (host employer) arranges to have persons other than the host employer's employees (outside rescuer) perform permit space rescue, the host employer shall ensure that:
>
> (i) The outside rescuer can effectively respond in a timely manner to a rescue summons.
>
> (ii) The outside rescuer is equipped, trained and capable of functioning appropriately to perform permit space rescues at the host employer's facility.

(iii) The outside rescuer is aware of the hazards they may confront when called on to perform rescue at the host employer's facility.

(iv) The outside rescuer is provided with access to all permit spaces from which rescue may be necessary so that the outside rescuer can develop appropriate rescue plans and practice rescue operations.

The Agency requests testimony and further comment concerning both the need for and the adequacy of the proposed language. Does the proposed language adequately clarify the host employer's responsibilities in using the services of a rescue service not comprised of his own employees? If not, how can the proposed provisions be further improved? Is addition guidance necessary?

Two commenters (Ex. 161–2 and 161–44) have provided examples of programs for the proper organization, training and equipping of rescue services. The Agency solicits input regarding the extent to which it would be appropriate to incorporate criteria, such as that provided by the commenters, either as regulatory text or in a non-mandatory appendix.

Employee Participation in Testing and Monitoring

In response to a submission from the USWA (Ex. 1), the NPRM solicited comment as to whether § 1910.146 should be revised to require that affected employees, or their designated representatives, be permitted to observe the evaluation of confined space conditions, including any testing or monitoring conducted under the permit space standard. The USWA (Ex. 161–38), which requested a hearing on this issue, expressed support for incorporation of employee participation into the permit standard. In particular, the USWA stated that such a provision was required under section 8(c)(3) of the OSH Act, which provides for employee observation of monitoring performed to verity compliance with health standards. The commenter also stated ''A worker entering a confined space risks sudden death if the monitoring is not done properly. Surely that worker should have the right to observe the monitoring.''

Other commenters (Exs. 161–39 and 161–43) stated that it was appropriate to require employee participation in monitoring and testing because it would reassure employees that the results were accurate and reliable. In addition, a commenter (Ex. 161–40) indicated that employee participation in monitoring was an example of the approaches that could be used to involve workers in the development and implementation of a permit space program.

On the other hand, some commenters (Exs. 161–9, 161–12, 161–13, 161–25,161–30, 161–50) opposed the inclusion of a requirement for employee observation of monitoring, stating that existing § 1910.146 already addressed employee access to monitoring information and that the suggested requirement would impose unreasonable burdens and delays. Other commenters (Exs. 161–20, 161–26, 161–29, 161–35, 161–48) also stated that section 8(c)(3) of the OSH Act does not require employee participation in permit space monitoring, because § 1910.146 is a *safety* standard and the statute applies to the promulgation of *health* standards.

In addition, some commenters (Exs. 161–15, 161–27 and 161–35) stated that adoption of the suggested provision would intrude on labor/management relations by mandating collaboration, while other commenters (Exs. 161–26 and 161–49) expressed concern that such a requirement would raise safety problems because employees would be exposed to dangerous atmospheres. One other commenter (Ex. 161–45) stated that it was unnecessary to mandate employee participation, but that permit space programs should provide for the survey of a permit space at an affected employee's request, as a means of building trust that the employer is looking out for the well-being of the employees.

In response to the above-described comments, OSHA requests additional input regarding the need for regulatory language addressing employee participation in permit space monitoring.

Correction

In its notice of November 28, 1994 (59 FR 60735) OSHA made an error in the regulatory text portion of the proposed revision of paragraph (k)(3)(i). The preamble discussion (in the middle column of page 60738) makes it clear that OSHA intended to amend only the first sentence of paragraph (k)(3)(i). However, the proposed regulatory text (in the third column of page 60739) did not include the existing paragraph (k)(3)(i) language which provides for the use of wristlets, creating the impression that OSHA intended to disallow the use of wristlets. Indeed, several commenters (Exs. 161–20, 161–25, 161–26, 161–48) called the omission to the Agency's attention and expressed support for the retention of the sentence in the final rule. The exclusion of the sentence regarding the use of wristlets from the proposal was inadvertent. Therefore, the proposed revision to paragraph (k)(3)(i), of § 1910.146, beginning on the tenth line of the third column of page 60739, is corrected to read as follows:

(i) Each authorized entrant shall use a chest or full body harness, with a retrieval line attached at the center of the entrant's back near shoulder level, above the entrants head or other point which the employer can establish will ensure that the entrant will present the smallest possible profile during removal. Wristlets may be used in lieu of the chest or full body harness if the employer can demonstrate that the use or full body harness is infeasible or creates a greater hazard and that the use of wristlets is the safest and most effective alternative.

* * * * *

Public Participation—Notice of Hearing

Pursuant to section 6(b) of the act, an opportunity to submit oral testimony concerning the proposed revisions and issues raised will be provided at an informal public hearing scheduled to begin at 9 a.m. on September 27, 1995 in the auditorium of the Francis Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210. The hearing will be extended to subsequent days as necessary.

Notice of Intention To Appear

All persons desiring to participate at the hearing must file, in quadruplicate, a notice of intention to appear, postmarked on or before September 13, 1995. The notice must be addressed to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket S–019A, room N3647, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 219–8615. The notice of intention to appear may also be transmitted by facsimile to (202) 219–5986, provided the original and 3 copies of the notice subsequently are sent to Mr. Hall.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center Docket Office, room N2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 219–7894, must contain the following information:

(1) The name, address, and telephone number of each person wishing to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A statement of the position that will be taken with respect to each issue addressed, and;

(6) Whether the party expects to submit documentary evidence, and, if so, a brief summary of that evidence.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of the testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be postmarked on or before September 13, 1995. These materials will be available for inspection and copying at the Technical Data Center Docket Office. The amount of time requested in each submission will be reviewed. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be provided appropriate notice.

Any party who has not substantially complied with the requirements for requesting more than 10 minutes of presentation time will be limited to a 10 minute presentation. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

The hearing will be open to the public, and any interested person is welcome to attend. However, only persons who have filed proper notice of intention to appear will be permitted to ask questions and otherwise participate fully in the proceeding.

Any participant who requires audiovisual equipment for their oral testimony must submit a request for such equipment in their notice of intent to appear, specifying the type of equipment needed.

Conduct and Nature of Hearing

The hearing will commence at 9 a.m. on September 27, 1995 in Washington, D.C. Any procedural matters relating to the hearing will be resolved immediately after commencement. The informal nature of the rulemaking hearing to be held is established in the legislative history of section 6 of the Act and is reflected in the OSHA hearing regulations (see 29 CFR 1911.15(a)). Although the presiding officer is an Administrative Law Judge and questioning by interested parties is allowed on the issues, it is clear that the hearing shall remain informal and legislative in type. The intent, in essence, is to provide an opportunity for effective oral presentation by interested parties which can be carried out expeditiously and in the absence of rigid procedures which might unduly impede or protract the rulemaking process.

The hearing will be conducted in accordance with 29 CFR part 1911. The hearing will be presided over by an Administrative Law Judge who will have all the necessary and appropriate authority to conduct a full and fair informal hearing as provided in 29 CFR 1911, including the powers to:

(1) Regulate the course of the proceedings;

(2) Dispose of procedural requests, objections and comparable matters;

(3) Confine the presentation to the matters pertinent to the issues raised;

(4) Regulate the conduct of those present at the hearing by appropriate means;

(5) In the Judge's discretion, question and permit the questioning of any witness and to limit the time for questioning, and;

(6) In the Judge's discretion, keep the record open for a reasonable, stated time to receive written information and additional data, views and arguments from any person who participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The Administrative Law Judge does not make or recommend any decisions as to the content of the final standard.

The proposed revisions and issues raised will be reviewed in light of all testimony and written submissions received as part of the record. Decisions made by OSHA concerning the proposed revisions and issues will be based on the entire record of the proceeding, including the written comments and data received from the public.

Written Comments

Interested persons are invited to submit written data, views and arguments with respect to the issues raised in this notice. These comments must be postmarked on or before September 13, 1995, and submitted in quadruplicate to the Docket Office, Docket No. S–019A, room N–2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 219–7894. Comments limited to 10 pages or less also may be transmitted by facsimile to (202) 219–5046, provided the original and three copies are sent to the Docket Office thereafter. Written submissions must clearly identify the issue addressed and the position taken with respect to each issue.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address.

All timely written submissions will be made a part of the record for this proceeding.

Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 1–90 (55 FR 9033) and 29 CFR part 1911.

Signed at Washington, D.C. this 28th day of July, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 95–18920 Filed 8–1–95; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

Collection From Third Party Payers of Reasonable Costs of Healthcare Services

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish a new rule under the Third Party Collection program for determining the reasonable costs of health care services provided by facilities of the uniformed services in cases in which care is provided under TRICARE Resource Sharing Agreements. For purposes of the Third Party Collection program such services will be treated the same as other services provided by facilities of the uniformed services. The proposed rule also lowers the high cost ancillary threshold value from $60 to $25 for patients that come to the uniformed services facility for ancillary services requested by a source other than a uniformed services facility provider. The reasonable costs of such services will be accumulated on a daily basis.

DATES: Written comments on this proposed rule must be received on or before October 2, 1995.

ADDRESSES: LCDR Pat Kelly, Office of the Assistant Secretary of Defense