work reflects one-quarter of the relative cost of physician's work compared to the national average.

For the first year of the fee schedule, the law required a base-year CF that was budget-neutral relative to 1991 estimated expenditures. The Secretary is required to recommend to the Congress updates to the CFs by April 15 of each year as part of the Medicare volume performance standards and annual fee schedule update process. The Congress may choose to enact the Secretary's recommendation, enact another update amount, or not act at all. If the Congress does not act, the annual fee schedule update is set according to a ''default'' mechanism in the law. Under this mechanism, the update will equal the Medicare Economic Index adjusted by the amount actual expenditures for the second previous fiscal year (FY) were greater or less than the performance standard rate of increase for that FY. (The Medicare Economic Index is a physician input price index, in which the annual percent changes for the direct-labor price component are adjusted by an annual percent change in a 10-year moving average index of labor productivity in the nonfarm business sector.) The Medicare volume performance standard for FY 1996 and the physician fee schedule update for CY 1996 are published elsewhere in this Federal Register issue as a final notice (BPD–828–FN).

D. Summary of the Development of the Relative Value Units

1. Work Relative Value Units

Approximately 7,500 codes represent services included in the physician fee schedule. The work RVUs established for the implementation of the fee schedule in January 1992 were developed with extensive input from the physician community. The original work RVUs for most codes were developed by a research team at the Harvard School of Public Health in a cooperative agreement with us. In constructing the vignettes for the original RVUs, Harvard worked with panels of expert physicians and obtained input from physicians from numerous specialties.

The RVUs for radiology services are based on the American College of Radiology (ACR) relative value scale, which we integrated into the overall physician fee schedule. The RVUs for anesthesia services are based on RVUs from a uniform relative value guide. We established a separate CF for anesthesia services because we continue to recognize time as a factor in determining payment for these services.

Proposed RVUs for services were published in a proposed rule in the Federal Register on June 5, 1991 (56 FR 25792). We responded to the comments in the November 1991 final rule. Since many of the RVUs were published for the first time in the final rule, we considered the RVUs to be interim during the first year of the fee schedule and gave the public 120 days to comment on all work RVUs. In response to the final rule, we received comments on approximately 1,000 services. We responded to those comments and listed the new RVUs in the November 1992 notice for the 1993 fee schedule for physicians' services. We considered these RVUs to be final and did not request comments on them.

The November 1992 notice (57 FR 55914) also discussed the process used to establish work RVUs for codes that were new or revised in 1993. The RVUs for these codes, which were listed in Addendum C of the November 1992 notice, were considered interim in 1993 and open to comment through January 26, 1993.

We responded to comments received on RVUs listed in Addendum C of the November 1992 notice (57 FR 56152) in the December 1993 final rule (58 FR 63647) for the 1994 physician fee schedule. The December 1993 final rule discussed the process used to establish RVUs for codes that were new or revised for 1994. The RVUs for these codes, which are listed in Addendum C of the December 1993 final rule (58 FR 63842), were considered interim in 1994 and open to comment through January 31, 1994. We proposed RVUs for some non-Medicare and carrier-priced codes in our June 1994 proposed rule (59 FR 32760). Codes listed in Table 1 of the June 1994 proposed rule were open to comment. These comments, in addition to comments on RVUs published as interim in the December 1993 final rule were addressed in the December 1994 final rule (59 FR 63432). In addition, the December 1994 final rule discussed the process used to establish RVUs for codes that were new or revised for 1995. Interim RVUs for new or revised procedure codes were open to comment. Comments were also accepted on all RVUs considered under the 5-year refinement process. The comment period closed on February 6, 1995.

2. Practice Expense and Malpractice Expense Relative Value Units

Section 1848(c)(2)(C) of the Act requires that the practice expense and malpractice expense RVUs equal the product of the base allowed charges and the practice expense and malpractice percentages for the service. Base allowed charges are defined as the national average allowed charges for the service furnished during 1991, as estimated using the most recent data available. For most services, we used 1989 charge data ''aged'' to reflect the 1991 payment rules, since those were the most recent data available for the 1992 fee schedule.

If charge data were unavailable or insufficient, we imputed the practice expense and malpractice expense RVUs from the work RVUs. For example, if a procedure has work RVUs of 6.00, and the specialty practice cost percentages for the specialty furnishing the service is 60 percent work, 30 percent practice expense, and 10 percent malpractice expense, then the total RVUs would be 10.00 (6.00/.60), the practice expense RVUs would be 3.00 ($10 \times .30$), and the malpractice expense RVUs would be 1.00 ($10 \times .10$).

II. Specific Proposals for Calendar Year 1996 and Responses to Public Comments

In response to the publication of the July 26, 1995 proposed rule, we received approximately 9,500 comments. We received comments from individual physicians and health care workers and professional associations and societies. The majority of the comments addressed two proposals: (1) Revising Medicare payment for physician services in teaching settings; and (2) paying for only one interpretation of an electrocardiogram or an x-ray procedure furnished to an emergency room patient except in unusual circumstances.

The proposed rule discussed policies that affect the number of RVUs on which payment for certain services would be based. Any changes implemented through this final rule are subject to the $20 million limitation on annual adjustments as contained in section 1848(c)(2)(B) of the Act.

After reviewing the comments and determining the policies we will implement, we have estimated the costs and savings of these policies and added those costs and savings to the estimated costs associated with any other changes in RVUs for 1996, including RVU changes necessitated by the 1995 CPT coding changes. We discuss in detail the effects of these changes in the Regulatory Impact Analysis (section IX).

In the July 1995 proposed rule (60 FR 38416), we invited public comments on a proposal to calculate the Medicare volume performance standard for fiscal year 1996 and all future years based on estimates of the average volume and intensity growth specific to each category of physician service. We are