

12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the state RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045, "Protection of Children From Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630, "Government Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective March 2, 2009.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 19, 2008.

**John B. Askew,**

*Regional Administrator, Region 7.*

[FR Doc. E8-30978 Filed 12-29-08; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**42 CFR Parts 411, 412, 413, 422, and 489**

[CMS-1390-CN2; CMS-1531-CN; CMS-1385-CN2]

RIN 0938-AP15; RIN 0938-AO35; RIN 0938-AO65

#### **Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction**

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

**ACTION:** Correction of final rules.

**SUMMARY:** This document corrects errors that appeared in the correction notice published in the October 3, 2008 **Federal Register** entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction."

**DATES:** *Effective Date:* This notice is effective December 30, 2008.

*Applicability Date:* This correction notice is applicable to discharges occurring on or after October 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Tzvi Hefter (410) 786-4487.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In FR Doc. E8-23082 of October 3, 2008 (73 FR 57541), the correction notice entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in

Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction” there were inadvertent errors that are identified and corrected in the Correction of Errors section of this correction notice.

On page 57543, there were errors in Tables 2 and 3B. In Table 2, for provider number 300005, we made a typographical error and included erroneous average hourly wage data for this provider. Therefore, in section II. of this correction notice, we have corrected the FY 2009 and 3-year average hourly wage data for this provider. In Table 3B, for the nonurban area of New Hampshire (CBSA 30), we inadvertently neglected to include the corrected

average hourly wage data and instead included the average hourly wage data from the FY 2009 inpatient prospective payment systems (IPPS) final rule (73 FR 48881). Therefore, in section II. of this correction notice, we have corrected the FY 2009 and 3-year average hourly wage data for this nonurban area. We note the corrections presented in this notice would subsequently correct the average hourly wage data errors in Tables 2 and 3B of the FY 2009 inpatient prospective payment systems (IPPS) final rule. We also note that the FY 2009 final rates published in the October 3, 2008 **Federal Register** (73 FR 57888) reflected the correct average hourly wage data for provider number 300005 and the nonurban area of New Hampshire (CBSA code 30); therefore the payment rates associated with this data are not being corrected.

**II. Correction of Errors**

In FR Doc. E8–23082 of October 3, 2008 (73 FR 57541), make the following corrections:

1. On page 57543,
  - a. Bottom of the second column and the top of the third column, last and first partial paragraphs, item 1, in Table 2.—Hospital Case-Mix Indexes for Discharges Occurring in Federal Fiscal Year 2007; Hospital Wage Indexes for Federal Fiscal Year 2009; Hospital Average Hourly Wages for Federal Fiscal Years 2007 (2003 Wage Data), 2008 (2004 Wage Data), and 2009 (2005 Wage Data); and 3-Year Average of Hospital Average Hourly Wages, the FY 2009 average hourly wage and the 3-year average hourly wage for provider number 300005 are corrected to read as follows:

| Provider No. | Average hourly wage FY 2009 <sup>1</sup> | Average hourly wage** (3 years) |
|--------------|--|---------------------------------|
| 300005 ..... | 28.8402                                  | 28.1813                         |

b. Third column, first paragraph, item 2, Table 3B.—FY 2009 and 3-Year\* Average Hourly Wage for Rural Areas by

CBSA, the FY 2009 Average Hourly Wage and 3-Year Average Hourly wage

for the CBSA Code 30 are corrected to read as follows:

| CBSA code | Nonurban area       | FY 2009 average hourly wage | 3-Year average hourly wage |
|-----------|---------------------|-----------------------------|----------------------------|
| 30 .....  | New Hampshire ..... | 33.2602                     | 32.8266                    |

**III. Waiver of Proposed Rulemaking and Delay in Effective Date**

We do not consider this correction notice to constitute a rule under 5 U.S.C. 553(b). The notice corrects average hourly wage data based upon policies already adopted in the FY 2009 IPPS final rule. Nevertheless, even if this correction notice could be viewed as substantive rule for which a notice of proposed rulemaking and delayed effective date were necessary under sections 553(b) and 553(d) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b) and 553(d)), we can waive this notice and comment procedure and delay in effective date if the Secretary finds, for good cause, that such procedures are impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can

be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. Therefore, we are waiving proposed rulemaking and the 30-day delayed effective date for the technical corrections in this notice. This notice merely corrects typographical errors in entries of two tables of the addendum of the FY 2009 IPPS final rule and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. In addition, this notice contains corrections to the average hourly wage data published in the October 3, 2008 **Federal Register** and does not make any changes to the final FY 2009 payment rates. As a result, this notice is intended to ensure that the FY 2009 IPPS final rule accurately reflects the policies adopted in the final rule. Therefore, we find that undertaking further notice and comment procedures to incorporate these corrections into the final rule or

delaying the effective date of these changes is unnecessary and contrary to the public interest.

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

Dated: December 22, 2008.

**Ann C. Agnew,**

*Executive Secretary to the Department.*

[FR Doc. E8–31013 Filed 12–29–08; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

**46 CFR Part 393**

[Docket No. MARAD–2008–0096]

RIN 2133–AB70

**America’s Marine Highway Program: Stay of Effectiveness**

**AGENCY:** Maritime Administration, DOT.