

**VI. Statutory and Executive Order Reviews**

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the

Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

**VII. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule 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 of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 4, 2012.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.511 the table in paragraph (a) is amended as follows:

- i. Remove the entries for Almond; Fruit, pome, group 11; Okra; Pepper, nonbell and Vegetable, fruiting, group 8, except nonbell pepper;
- ii. Revising the entries for Llama and Loganberry to read Llama and Logan respectively; and
- iii. Add alphabetically new entries.

The revisions and additions read as follows:

**§ 180.511 Buprofezin; tolerances of residues.**

(a) \* \* \*

Commodity	Parts per million
* * *	*
Bean, succulent .....	0.02
* * *	*
Brassica, leafy greens, subgroup 5B .....	60
* * *	*
Fruit, pome, group 11-10, except pear and pear, Asian .....	3.0
* * *	*
Llama .....	0.30
* * *	*
Logan .....	0.30
* * *	*
Nut, tree group 14 .....	0.05
* * *	*
Pear .....	6.0
Pear, Asian .....	6.0
Persimmon .....	1.9
* * *	*
Tea <sup>1</sup> .....	20
Turnip, greens .....	60
* * *	*
Vegetable, fruiting, group 8-10 .....	2.0
* * *	*

<sup>1</sup> There are no U.S. registrations at this time.

\* \* \* \* \*  
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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 412**

[CMS-1588-F2]

RIN 0938-AR12

**Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals' Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers; Correcting Amendment**

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects technical errors in the regulations text of the final rule that appeared in the August 31, 2012 **Federal Register** entitled “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals’ Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers” (hereinafter referred to as the FY 2013 IPPS/LTCH PPS final rule).

**DATES: Effective Date:** This correcting amendment is effective October 12, 2012.

**Applicability Date:** The provisions of this correcting amendment are applicable October 1, 2012.

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

**SUPPLEMENTARY INFORMATION:**

**I. Background and Summary of Errors**

In the FY 2013 Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System final rule (hereinafter referred to as the FY 2013 IPPS/LTCH PPS final rule) (FR Doc. 2012-19079 of August 31, 2012 (77 FR 53258)), there were several typographical and technical errors in the regulations text that are identified and corrected in this correcting amendment. The provisions in this correcting amendment apply to long-term care hospital (LTCH) prospective payment system (PPS) payments.

In finalizing the regulations text changes for the FY 2013 LTCH PPS provisions (77 FR 53680), we made the following errors:

- In § 412.534(h)(6), we inadvertently omitted regulations text that specified our methodology for determining the percentage of discharges during a LTCH’s or satellite facility’s cost reporting period beginning on or after July 1, 2012 and before October 1, 2012 that will not be counted towards the 25-percent threshold during such cost reporting period.

- In § 412.536(a)(3)(i)—

- ++ We inadvertently omitted regulations text that specified the discharges to which the 25-percent payment adjustment threshold policy applies for LTCHs with cost reporting periods beginning on or after July 1, 2012 and before October 1, 2012; and

- ++ We made an error in the timeframe during which the 25-percent payment adjustment threshold policy will not apply for certain LTCHs (that is,

those LTCHs with a cost reporting period beginning on or after July 1, 2012 and before October 1, 2012).

- In § 412.536(a)(3)(ii), we made an error in citing the timeframe during which the 25-percent payment adjustment threshold policy is in effect for certain LTCHs (that is, those LTCHs with a cost reporting period beginning on or after July 1, 2012 and before October 1, 2012), as well as an error in the timeframe during which discharges occurring during such LTCHs’ cost reporting periods will not be counted towards the 25-percent threshold.

We are correcting these regulations text errors to ensure that the regulations text reflects the finalized 25-percent payment adjustment threshold policy set forth in the preamble of the final rule (77 FR 53483 through 53486).

**II. Waiver of Proposed Rulemaking and Delay in the Effective Date**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is 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.

We find that there is good cause to waive both the notice and comment and delayed effective date requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest. We believe it is in the public interest for our regulation text to accurately reflect the policy on the 25-percent payment adjustment threshold which was adopted in the FY 2013 IPPS/LTCH PPS final rule. Therefore delaying the effective date of these corrections would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to

comment and finalized in the FY 2013 IPPS/LTCH PPS final rule. As indicated previously, this correcting amendment corrects technical and typographical errors in the regulations text of the FY 2013 IPPS/LTCH PPS final rule and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting amendment is intended to ensure that the regulations text accurately reflects the policies adopted in the FY 2013 IPPS/LTCH PPS final rule. Therefore, for the reasons set forth previously, we believe we have good cause to waive the notice and comment and effective date requirements.

**List of Subjects for 42 CFR Part 412**

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

As noted in section I. of this correcting amendment, the Centers for Medicare & Medicaid Services is making the following correcting amendments to 42 CFR part 412:

**PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES**

- 1. The authority citation for Part 412 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), and sec. 124 of Pub. L. 106-113 (113 Stat. 1501A-332).

- 2. Amend § 412.534 as follows:
  - A. Redesignating paragraph (h)(6)(ii) as paragraph (h)(6)(iii).
  - B. Adding a new paragraph (h)(6)(ii).  
The addition reads as follows:

**§ 412.534 Special payment provisions for long-term care hospitals within hospitals and satellites of long-term care hospitals.**

\* \* \* \* \*

(h) \* \* \*

(6) \* \* \*

(ii) In determining whether the percentage of discharges during a long-term care hospital’s or satellite facility’s cost reporting period beginning on or after July 1, 2012 and before October 1, 2012 exceeds the 25-percent threshold, those discharges occurring on or after October 1, 2012 and before the beginning of the hospital’s or satellite facility’s next cost reporting period will not be counted towards that threshold.

\* \* \* \* \*

**§ 412.536 [Amend]**

- 3. Amend § 412.536 as follows:
  - A. Revising paragraph (a)(3)(i).
  - B. In paragraph (a)(3)(ii)—

(i) The phrase “before July 1, 2013” is removed and the phrase “before October 1, 2012” is added in its place.

(ii) The phrase “before October 1, 2013,” is removed and the phrase “before the beginning of the hospital’s next cost reporting period,” is added in its place.

The revision reads as follows:

**§ 412.536 Special payment provisions for long-term care hospitals and satellites of long-term care hospitals that discharged Medicare patients admitted from a hospital not located in the same building or on the same campus as the long-term care hospital or satellite of the long-term care hospital.**

- (a) \* \* \*
- (3) \* \* \*

(i) Payments to long-term care hospitals described in paragraph (a)(1)(iv) of this section are determined using the methodology specified in either paragraph (b)(1) or paragraph (b)(2) of this section, for discharges occurring prior to October 1, 2012 during the hospital’s cost reporting period beginning on or after July 1, 2012 and before October 1, 2012. Such policies will not be applied to the discharges occurring on or after October 1, 2012 and before the beginning of the hospital’s next cost reporting period.

\* \* \* \* \*

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

Dated: October 10, 2012.

**Oliver Potts,**

*Deputy Executive Secretary to the Department, Department of Health and Human Services.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket ID FEMA-2012-0003; Internal Agency Docket No. FEMA-8251]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for

suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA’s Community Status Book (CSB). The CSB is available at <http://www.fema.gov/fema/csb.shtm>.

**DATES: Effective Dates:** The effective date of each community’s scheduled suspension is the third date (“Susp.”) listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the

suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA’s initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of