DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412, 413, 424, and 476

[CMS–1588–CN5]

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; Corrections

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

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in 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.''

DATES: This correcting document is effective on March 18, 2014.

FOR FURTHER INFORMATION CONTACT: Cindy Tourison (410) 786–1093.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2012–19079, which appeared in the August 31, 2012 **Federal Register** (77 FR 53258) 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'' there were technical errors that are identified and corrected in the Correction of Errors section of this correcting document.

II. Summary of Errors in the Preamble

On page 53602 and 53603, we inadvertently included Medicare Advantage (MA) claims in our calculation of the final performance standards that apply to the PSI–90 measure for the FY 2015 and FY 2016 Hospital Value-Based Purchasing Program.

We also note that we have made similar corrections to the FY 2014 IPPS/LTCH PPS final rule and these corrections are published elsewhere in this issue of the **Federal Register**.

III. Waiver of Proposed Rulemaking and Delay of 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.

In our view, this correcting document does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical errors in certain HVBP tables but does not make substantive changes to the HVBP policies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the HVBP tables accurately reflect the policies adopted in that final rule.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such 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 because it is in the public's interest for providers to receive appropriate corrected table values in as timely a manner as possible, and to ensure that the FY 2013 IPPS/LTCH PPS final rule accurately reflects our HVBP policies. Furthermore, such procedures would be unnecessary, as we are not altering our HVBP policies, but rather, we are simply implementing correctly the policy for calculating certain HVBP table values that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2013 IPPS/LTCH PPS final rule accurately reflects these HVBP policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2012–19079 of August 31, 2012 (77 FR 53258), make the following corrections:

1. On pages 53601 and 53602, in the table entitled ''FINAL PERFORMANCE STANDARDS FOR THE FY 2015 HOSPITAL VBP PROGRAM CLINICAL PROCESS OF CARE, OUTCOME, AND EFFICIENCY DOMAINS,'' the performance standards for the PSI–90 Measure are corrected to read as follows:

Measure ID	Description	Achievement threshold	Benchmark
	Outcome Measures		
PSI–90	Patient safety for selected indicators (composite)	0.616248	0.449988

2. On page 53603, in the table entitled ''FINAL PERFORMANCE STANDARDS FOR FY 2016 HOSPITAL VBP PROGRAMS OUTCOME DOMAIN: MORTALITY/PSI COMPOSITE MEASURES,'' the performance standards for the PSI–90 Measure are corrected to read as follows:

Measure ID	Description	Achievement threshold	Benchmark
	Outcome Measures		
PSI–90	Patient safety for selected indicators (composite)	0.616248	0.449988

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

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

Dated: March 6, 2014.

Jennifer M. Cannistra,

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

[FR Doc. 2014–05836 Filed 3–17–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, 173, 175 and 178

[Docket No. PHMSA–2011–0158 (HM–233C)]

RIN 2137–AE82

Hazardous Materials: Adoption of Certain Special Permits and Competent Authorities Into Regulations

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration is amending the Hazardous Materials Regulations (HMR) to adopt provisions contained in certain widely used or longstanding special permits and certain competent authority approvals (''approvals'') that have established safety records. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the regulations provided an equivalent level of safety is maintained. An approval is a written consent (document) required under an international standard (i.e., International Maritime Dangerous Goods (IMDG) Code, International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI)), or is specifically provided for in the HMR, and is issued by the Associate Administrator for Hazardous Materials Safety. These revisions are intended to provide wider access to the regulatory flexibility offered in special permits and approvals and eliminate the need for numerous renewal requests, reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety.

DATES: This regulation is effective April 17, 2014. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 17, 2014.

FOR FURTHER INFORMATION CONTACT: Steven Andrews, Office of Hazardous Materials Safety, Standards and Rulemaking Division, (202) 366–8553, or, Diane LaValle, Office of Hazardous Materials Safety, Approvals and Permits Division, (202) 366–4535, Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

PHMSA is amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to adopt several long standing special permits and competent authority approvals into the HMR. The identified special permits and competent authority approvals have a long history of safety. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the HMR provided an equivalent level of safety is maintained. A competent authority (CA) approval is a written consent (document) required under an international standard (i.e., International Maritime Dangerous Goods (IMDG) Code or International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI)) and is issued by the Associate Administrator for Hazardous Materials Safety.

In 2009, an audit of the Special Permits program by the Office of the Inspector General identified a need for an ongoing review of all open special permits with an outlook towards identifying those that should be made part of the HMR to reduce the overall economic burden to both affected industry and the government. Three rulemakings, HM–233A; PHMSA–2009–0289 (75 FR 27205), HM–245; PHMSA–2010–0017 (76 FR 5483), and HM–216B; PHMSA–2010–0018 (77 FR 37962) have successfully codified certain special permits into the HMR. These revisions provide wider access to the regulatory flexibility offered in special permits and eliminate the need for numerous renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety.

This Final Rule, HM–233C, continues this initiative by adopting several other long-standing special permits and competent authority approvals with proven safety records into the HMR. The special permits affected by the final rule represent variances from current regulations on topics categorized as follows:

- Limited quantities of liquids and solids containing ethyl alcohol.
- Transportation of solid coal tar pitch compounds.
- Transportation of certain ammonia solutions in UN1H1 and UN6HA1 drums.
- Transportation of spent bleaching earth.
- Requalification of non-DOT specification cylinders in life-saving appliances.
- Use of regulated medical waste containers displaying alternative markings.
- Adoption of special permits to harmonize with FAA Modernization and Reform Act of 2012.

The economic impact of the final rule can thus be summarized as follows:

NET COST: $0. Currently, industry must apply for a special permit in order to ship materials as described in this final rule. Adoption of these special permits into the HMR will reduce the burden on industry by no longer requiring industry to apply for a special permit to ship these materials. Therefore, this final rule does not impose any new costs to industry.

NET BENEFITS: $9,900 per year. (Averaged over 10 years, at a 7% annual discount rate.)

In addition to general positive economic impacts noted above, this final rule will eliminate the need for