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) (2 U.S.C. 1501 et seq.).

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

VII. Congressional Review Act

Pursuant to the Congressional Review
Act (5 U.S.C. 801 et seq.), 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 the rule in the Federal
Register. This action 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.


Daniel J. Rosenblatt,
Acting 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:


2. Section 180.628 is amended as follows:

i. Remove the entries for crambe, seed;
grain, aspirated fractions; hare’s ear
mustard, seed; jojoba, seed; lesquerella,
seed; milkweed, seed; mustard, seed;
oil, radish, seed; poppy, seed; rapeseed,
seed; rose hip, seed; sesame, seed;
tallowwood, seed; tea oil plant, seed;
vegetable, foliage of legume, except
soybean, subgroup 7A, forage; vegetable,
foliage of legume, except soybean,
subgroup 7A, hay; and vegetable,
legume, group 6, except soybeans; from
the table in paragraph (a).

ii. Revise the tolerances for cattle, fat;
cattle, meat; goat, fat; goat, meat; horse,
fat; horse, meat; sheep, fat; sheep, meat;
in the table in paragraph (a).

iii. Add alphabetically entries for
cottonseed subgroup 20C, grain,
aspirated grain fractions; rapeseed
subgroup 20A; sunflower subgroup 20B;
vegetable, legume, group 6; vegetable,
foliage of legume, group 7, forage; and
vegetable, foliage of legume, group 7,
hay; to the table in paragraph (a).

iv. Remove the entries for soybean,
forage, and soybean, hay, from the table
in paragraph (d).

The added and revised text read as
follows:

§ 180.628 Chlorantraniliprole; tolerances
for residues.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cattle, fat</td>
<td>0.5</td>
</tr>
<tr>
<td>Cattle, meat</td>
<td>0.1</td>
</tr>
<tr>
<td>Cottonseed subgroup 20C</td>
<td>0.3</td>
</tr>
<tr>
<td>Goat, fat</td>
<td>0.5</td>
</tr>
<tr>
<td>Goat, meat</td>
<td>0.1</td>
</tr>
<tr>
<td>Grain, aspirated grain</td>
<td>640</td>
</tr>
<tr>
<td>fractions</td>
<td></td>
</tr>
<tr>
<td>Horse, fat</td>
<td>0.5</td>
</tr>
<tr>
<td>Horse, meat</td>
<td>0.1</td>
</tr>
<tr>
<td>Rapeseed subgroup 20B</td>
<td>2.0</td>
</tr>
<tr>
<td>Sheep, fat</td>
<td>0.5</td>
</tr>
<tr>
<td>Sheep, meat</td>
<td>0.1</td>
</tr>
<tr>
<td>Sunflower subgroup 20C</td>
<td>0.3</td>
</tr>
<tr>
<td>Vegetable, legume, group 6</td>
<td>2.0</td>
</tr>
<tr>
<td>Vegetable, foliage of</td>
<td></td>
</tr>
<tr>
<td>legume, group 7, forage</td>
<td>30</td>
</tr>
<tr>
<td>Vegetable, foliage of</td>
<td></td>
</tr>
<tr>
<td>legume, group 7, hay</td>
<td>90</td>
</tr>
</tbody>
</table>

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Centers for Medicare & Medicaid
Services

42 CFR Parts 412, 413, 424, and 476
[CMS–1588–CN2]

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 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: Effective Date: October 1, 2012.

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

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2012–19079 of August 31,
2012 (77 FR 53258), there were a
number of technical errors that are
identified and corrected in the
Correction of Errors section of this
correcting document. The provisions in
this correcting document are effective as
if they had been included in the final
rule appearing in the August 31, 2012
Federal Register. Accordingly, the
corrections are effective October 1,
2012.

II. Summary of Errors and Corrections

Posted on the CMS Web Site

A. Errors in the Preamble

On page 53268, in our summary of the
provisions of the Hospital Inpatient
Quality Reporting (IQR) Program, we
inadvertently referenced hospital-
acquired condition (HAC) measure sets
C. Summary of Errors in and Corrections to Tables Posted on the CMS Web site.

Errors and corrections are listed for each section.

D. Proposed Rulemaking

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

We ordinarly 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 and typographical errors in the preamble, regulations text, tables included in the Addendum of the FY 2013 IPPS/LTCH PPS final rule, and tables posted on the CMS Web site but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the preamble, regulations text, tables included in the Addendum of the FY 2013 IPPS/LTCH PPS final rule, and tables posted on the CMS Web site but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the preamble, regulations text, tables included in the Addendum of the FY 2013 IPPS/LTCH PPS final rule, and tables posted on the CMS Web site accurately reflect the policies and payment methodologies that were adopted in the final rule. 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:

#### A. Corrections of Errors in the Preamble

1. On page 53268,
   a. First column, first partial paragraph, line 10, the phrase “HAC measures sets” is corrected to read “HAI measures sets”.
   b. Third column, last paragraph, second line from the bottom, the figure “$280” is corrected to read “$290”.

2. On page 53278, third column, first partial paragraph, line 32, the phrase “in FY 2010.” is correct to read “in FY 2013.”.

3. On page 53315, third column, last paragraph, line 4, the phrase “the ICD–9–CM coding system” is corrected to read “the ICD–9–CM diagnosis codes”.

4. On page 53386, third column, third paragraph, line 7, the phrase “for applicable conditions,” is deleted.


6. On page 53392, lower half of the page, first column, first paragraph—a. Line 10, the phrase “all discharges for applicable conditions” is corrected to read “all discharges”.
   b. Lines 12 and 13, the phrase “all discharges for applicable conditions” is corrected to read “all discharges.”.

7. On page 53485, second column, first partial paragraph—
   a. Line 26, the phrase “IPPS Hospital A” is corrected to read “IPPS Hospital B”.
   b. Line 29, the phrase “LTCH B” is corrected to read “LTCH A”.

8. On page 53508, second column, last paragraph, line 1, the phrase “We wish to clarify” is corrected to read “We are clarifying”.

9. On page 53545, second column, first partial paragraph, line 5, the bracketed phrase “[or catheter?]” is corrected to read “or catheter”.

10. On page 53557, second column, first full paragraph, line 2, the phrase “with other our” is corrected to read “with our other”.

11. On page 53601, bottom of the page, the table entitled “FINAL PERFORMANCE STANDARDS FOR THE FY 2015 HOSPITAL VBP PROGRAM CLINICAL PROCESS OF CARE, OUTCOME, AND EFFICIENCY DOMAINS,” the listed entry is added after Measure ID AMI–8a to read as follows:

#### CLINICAL PROCESS OF CARE MEASURES

<table>
<thead>
<tr>
<th>Measure ID</th>
<th>Description</th>
<th>Achievement threshold</th>
<th>Benchmark</th>
</tr>
</thead>
<tbody>
<tr>
<td>HF–1</td>
<td>Discharge Instructions</td>
<td>0.94118</td>
<td>1.00000</td>
</tr>
</tbody>
</table>

12. On page 53648, first column, first full paragraph, lines 9 and 10, the phrase “physical restraint (HBIPS–2) use” is corrected to “physical restraint use”.

13. On page 53655, third column, second paragraph, lines 6 and 7, the phrase “behavioral services in the IPF settings” is corrected to read “behavioral health services in the IPF setting.”

14. On page 53668,
   a. Second column, second full paragraph, line 9, the phrase “over 200” is corrected to read “upwards of 300”.
   b. Third column, first partial paragraph, lines 17 and 18, the phrase “321 LTCHs” is corrected to read “upwards of 300 LTCHs”.

15. On page 53669, third column, first full paragraph, lines 9 through 11, the phrase “to comply with the reporting pressure ulcer data.” is corrected to read “to report pressure ulcer data.”.

#### B. Corrections of Errors in the Addendum

1. On page 53706, middle of the page, the table entitled, “COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2012 CAPITAL FEDERAL RATE AND FY 2013 CAPITAL FEDERAL RATE,” listed entry is corrected to read as follows:

<table>
<thead>
<tr>
<th>FY 2012</th>
<th>FY 2013</th>
<th>Change</th>
<th>Percent change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0004</td>
<td>0.9998</td>
<td>0.9998</td>
<td>–0.02</td>
</tr>
</tbody>
</table>

1 The update factor and the GAF/DRG budget neutrality adjustment factors are built permanently into the capital Federal rates. Thus, for example, the incremental change from FY 2012 to FY 2013 resulting from the application of the 0.9998 GAF/DRG budget neutrality adjustment factor for FY 2013 is a net change of 0.9998 (or –0.02 percent).

2. On page 53731, first column, first paragraph, line 28, the figure “2,206” is corrected to read “2,217”.

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

Office of the Secretary

49 CFR Part 40
[Docket DOT–OST–2010–0026]

RIN 2105–AE14

Procedures for Transportation Workplace Drug and Alcohol Testing Programs: 6-acetylmorphine (6-AM) Testing

AGENCY: Office of the Secretary, U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule adopts as final, without change, a May 4, 2012, interim final rule (IFR) which no longer requires laboratories and Medical Review Officers (MRO) to consult with one another regarding the testing for the presence of morphine when the laboratory confirms the presence of 6-acetylmorphine (6-AM). Also, laboratories and MROs will no longer need to report 6-AM results to the Office of Drug and Alcohol Policy and Compliance (ODAPC). This rule also responds to comments on the IFR.

DATES: The rule is effective October 3, 2012.


SUPPLEMENTARY INFORMATION:

Background and Purpose

On August 16, 2010, [75 FR 49850] the Department published its final rule to harmonize with many aspects of the revised Department of Health and Human Services (HHS) Mandatory Guidelines [73 FR 71858]. One item with which the DOT harmonized was the laboratory testing for 6-acetylmorphine (6-AM) without a morphine marker. 6-AM is a unique metabolite produced when a person uses the illicit drug heroin. Prior to the October 1, 2010, rulemaking, both the HHS and Department of Transportation (DOT) regulations required the laboratory to first test for morphine, and if it detected morphine at the HHS/DOT cutoff of 2000ng/mL, the lab would then test for 6-AM.

For the reasons discussed in the DOT final rule [75 FR 49850], we decided that, until more experience was gained with the new testing procedures for 6-AM, we would place additional requirements on laboratories and MROs. Specifically, when there was a 6-AM positive result and morphine was not detected by a laboratory at the 2000ng/mL cutoff, we added a requirement for the laboratory and MRO to determine whether morphine was detected at the laboratory’s level of detection (LOD). If morphine was not detected at the laboratory’s LOD, the laboratory and MRO were to report that result to DOT’s Office of Drug and Alcohol Policy and Compliance (ODAPC). After consulting with ODAPC, the MRO would make a verified result determination, keeping in mind that there is no legitimate explanation for 6-AM in the employee’s specimen [see § 40.151(g)]. The Department would track these results and discuss them with HHS.

On May 4, 2012, the Department issued an IFR [77 FR 26471] and effective July 3, 2012, related to 6-AM testing. For reasons stated in that IFR, we removed the requirement for laboratories and MROs to consult with one another regarding the testing for the presence of 6-AM. The IFR also streamlined the laboratory analysis and MRO reporting of 6-AM results by not having either the laboratory or MRO report the 6-AM information to ODAPC. The IFR also sought comments to the IFR which were to be submitted by June 4, 2012. There were two such comments.

Discussion of Comments to the Docket

There were two comments to the docket representing three organizations. One comment was submitted by a large organization which represents physicians who are MROs. The other comment was submitted by a large medical review officer service and consortium which provide drug and alcohol testing services primarily to the pipeline industry.

Each of the commentors fully supported the Department’s position on amending the requirements for testing and reporting 6-AM test results. Their support of the IFR further reinforces that there are no legitimate medical explanations for the confirmation of 6-AM on a DOT drug test and that the MRO must make positive results determinations in these cases.

One commenter asked whether we had noted a spike followed by a decline in the 6-AM results during the first year of testing, as they did. They wondered whether our commissioned study was designed to shed light on their observation.

We would note that over time, the Department has indeed seen an increase of laboratory-reported 6-AM test results. However, we found that the largest semi-annual period rise of 6-AM results, by number and percentage increase, came even before the October 2010 effective date of the new rules. This larger rise was noted when we compared the July–December 2009 period with the January–June 2010 period. Also, it is important to note that the number of total drug tests reported by laboratories has risen during each 6-month period, starting with the July–December 2009 period, and the number of 6-AM positive results has steadily risen each period since July–December 2008.

The following table displays the laboratory data for 6-AM before, during transition, and after full implementation of the new testing protocols:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Laboratory Test Results.</td>
<td>2.85 million ...</td>
<td>2.59 million ...</td>
<td>2.57 million ...</td>
<td>2.69 million ...</td>
<td>2.77 million ...</td>
<td>2.82 million ...</td>
</tr>
<tr>
<td>6-AM Laboratory Positives</td>
<td>121</td>
<td>158</td>
<td>173</td>
<td>281</td>
<td>298</td>
<td>371</td>
</tr>
</tbody>
</table>

* The new requirement for 6-AM testing was in effect for the last 3 months of the period.