

and information, there is a reasonable certainty that the use of *Aspergillus flavus* NRRL 21882 on field, sweet and pop corn will not cause harm to the U.S. adult, children and infant populations via dietary, aggregate and cumulative exposure. Thus, an exemption from the requirement of a tolerance on field, sweet and pop corn is being granted.

#### IX. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA 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 section 408(d) of FFDCA, 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 section 408(n)(4) of FFDCA. 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).

#### X. 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: September 19, 2008.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention 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. Section 180.1254 is amended by revising paragraph (b) to read as follows:

**§ 180.1254 *Aspergillus flavus* NRRL 21882; exemption from requirement of a tolerance.**

\* \* \* \* \*

(b) An exemption from the requirement of a tolerance is established for residues of *Aspergillus flavus* NRRL 21882 on corn, field, forage; corn, field, grain; corn, field, stover; corn, field,

aspirated grain fractions; corn, sweet, kernel plus cob with husk removed; corn, sweet, forage; corn, sweet, stover; corn, pop, grain; and corn, pop, stover.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-1534-CN]

#### 42 CFR Part 413

RIN 0938-AP11

### Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the August 8, 2008 **Federal Register** entitled, "Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2009."

**DATES:** *Effective Date:* This correction is effective October 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Bill Ullman, (410) 786-5667.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. E8-17948 of August 8, 2008 (73 FR 46416), there were two technical errors that this notice serves to identify and correct. The corrections in this correction notice are effective as if they had been included in the document published on August 8, 2008. Accordingly, the corrections are effective October 1, 2008.

##### II. Summary of Errors

On page 46430 of the August 8, 2008 final rule, we are correcting the title of Table 10. This table illustrates the skilled nursing facility (SNF) prospective payment system (PPS) payment rate computations for a hypothetical "XYZ" SNF located in Cedar Rapids, IA. In the table's title, the wage index value for Cedar Rapids, IA is incorrectly identified as 0.8924. Accordingly, in section III of this document ("Correction of Errors"), we are correcting the wage index value in the title of Table 10 to reflect the correct wage index value of 0.8919. We note

that the entries for this value that appear in the "wage index" column of the table itself, as well as the corresponding entry for CBSA 16300 in Table 8 ("FY 2009 Wage Index for Urban Areas Based on CBSA Labor Market Areas," which appeared as an addendum to the August 8, 2008 final rule), both correctly reflect this value as 0.8919.

In addition, in the addendum to the August 8, 2008 final rule, we are revising an entry in Table 9 ("FY 2009 Wage Index Based on CBSA Labor Market Areas for Rural Areas") in order to correct a technical error made to the wage data for one inpatient hospital provider in rural New Hampshire. We are revising the wage index value displayed in Table 9 for rural New Hampshire from "1.0182" to the corrected value of "1.0219". Since this revision involves only a single entry in Table 9, we are not republishing the table in its entirety in this notice; however, we note that the corrected version of this table is available on the SNF PPS Web site, which can be accessed online at <http://www.cms.hhs.gov/SNFPPS/>.

### III. Correction of Errors

In FR Doc. E8-17948 (73 FR 46416), make the following corrections:

1. On page 46430, in Table 10, the wage index value "0.8924" displayed in the title is revised to read "0.8919".
2. On page 46462, in Table 9, in the wage index column for New Hampshire, State code 30, the wage index value "1.0182" is revised to read "1.0219".

### IV. Waiver of Proposed Rulemaking and Delayed Effective Date

We ordinarily publish a proposed rule in the **Federal Register** to provide a period for public comment before the provisions of a rule such as this take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a notice in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice and comment procedure and the 30-day delay in effective date if the Secretary finds, for good cause, that a notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons for it in the notice.

We find for good cause that it is unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the regulations. We are not making substantive changes to our

payment methodologies or policies, but rather, are simply implementing correctly the payment methodologies and policies that we previously proposed, received comment on, and subsequently finalized. The public has already had the opportunity to comment on these payment methodologies and policies, and this correction notice is intended solely to ensure that the FY 2009 SNF PPS final rule accurately reflects them. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections into the final rule is unnecessary and contrary to the public interest.

Further, we believe a delayed effective date is unnecessary because this correction notice merely corrects inadvertent technical errors. The changes noted above do not make any substantive changes to the SNF PPS payment methodologies or policies. Moreover, we regard imposing a delay in the effective date as being contrary to the public interest. We believe that it is in the public interest for providers to receive appropriate SNF PPS payments in as timely a manner as possible and to ensure that the FY 2009 SNF PPS final rule accurately reflects our payment methodologies, payment rates, and policies. Therefore, we find good cause to waive notice and comment procedures, as well as the 30-day delay in effective date.

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

Dated: September 29, 2008.

**Ashley Files Flory**,  
Deputy Executive Secretary to the  
Department.

[FR Doc. E8-23253 Filed 9-30-08; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

#### Satellite Communications

##### CFR Correction

In title 47 of the Code of Federal Regulations, parts 20 to 39, revised as of October 1, 2007, in § 25.208, on page 239, in Table 1G in paragraph (g) and, on page 240, in Table 1H in paragraph (h) make the following change:

For each entry in the tables, remove the number "40" from the third column, "Percentage of time during which EPFD<sub>down</sub> level may not be exceeded"

and add it to the fourth column, "Reference bandwidth (kHz)".

[FR Doc. E8-23115 Filed 9-30-08; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[FCC 08-192]

#### Network Affiliated Stations Alliance (NASA) Petition for Inquiry Into Network Practices and Motion for Declaratory Ruling

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of petition for inquiry.

**SUMMARY:** NASA and the Networks request that the Commission affirm a number of basic principles relating to the Commission rules governing network/affiliate relationships to avoid future disputes. Since that time, each of the Networks engaged in constructive discussions with its respective affiliates and revised its current standard affiliation agreement to address the central issues raised by NASA. Accordingly, NASA and the Networks agree that a Commission ruling with respect to those particular contract provisions is no longer necessary. Pursuant to the Commission's rules, we grant NASA's request for declaratory ruling in part and grant the Joint Request in full.

**DATES:** October 1, 2008.

**ADDRESSES:** You may submit comments, identified by FCC 08-192, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, please contact Holly Saurer, [Holly.Saurer@fcc.gov](mailto:Holly.Saurer@fcc.gov), of the Policy Division, Media Bureau, (202) 418-2120.