

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 action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (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 (NTTAA) (15 U.S.C. 272 note).

### VIII. 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.

Dated: March 12, 2018.

**Michael L. Goodis,**

*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 § 180.910, add alphabetically the inert ingredients to the table to read as follows:

**§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.**

\* \* \* \* \*

Inert ingredients	Limits	Uses
* * *	* * *	* * *
<i>N,N</i> -Dimethyl 9-decenamide (CAS Reg. No. 1356964–77–6).	Not to exceed 20% by weight of pesticide formulation ..	Surfactant, solvent
<i>N,N</i> -Dimethyldodecanamide (CAS Reg. No. 3007–53–2)	Not to exceed 20% by weight of pesticide formulation ..	Surfactant, solvent
* * *	* * *	* * *
<i>N,N</i> -Dimethyltetradecanamide (CAS Reg. No. 3015–65–4).	Not to exceed 20% by weight of pesticide formulation ..	Surfactant, solvent
* * *	* * *	* * *

[FR Doc. 2018–06108 Filed 3–29–18; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 414

[CMS–6078–N]

### Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Items; Update to the Master List of Items Frequently Subject to Unnecessary Utilization

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

**ACTION:** Master list deletions.

**SUMMARY:** This document announces the deletion of four Healthcare Common Procedure Coding System (HCPCS) codes from the Master List of Items Frequently Subject to Unnecessary Utilization that could be potentially

subject to Prior Authorization as a condition of payment.

**DATES:** This action is applicable on April 30, 2018.

#### FOR FURTHER INFORMATION CONTACT:

Emily Calvert, (410) 786–4277.

Andre Damonze, (410) 786–1795.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the December 30, 2015 final rule (80 FR 81674) titled “Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies,” we implemented section 1834(a)(15) of the Social Security Act (the Act) by establishing an initial Master List (called the Master List of Items Frequently Subject to Unnecessary Utilization) of certain DMEPOS that the Secretary determined, on the basis of prior payment experience, are frequently subject to unnecessary utilization and by establishing a prior authorization process for these items. The Master List includes items that meet the following criteria:

- Appear on the DMEPOS Fee Schedule list.

- Have an average purchase fee of \$1,000 or greater (adjusted annually for inflation) or an average monthly rental fee schedule of \$100 or greater (adjusted annually for inflation). (These dollar amounts are referred to as the “payment threshold”).

- Meet either of the following criteria:
  - ++ Identified in a Government Accountability Office (GAO) or Department of Health and Human Services Office of Inspector General (OIG) report that is national in scope and published in 2007 or later as having a high rate of fraud or unnecessary utilization.

- ++ Listed in the 2011 or later Comprehensive Error Rate Testing (CERT) program’s Annual Medicare Fee-For-Service (FFS) Improper Payment Rate Report DME and/or DMEPOS Service Specific Report(s).

The rule described the maintenance process of the Master List as follows:

- The Master List is self-updating annually. That is, items on the DMEPOS Fee Schedule that meet the “payment threshold” are added to the list when

the item is listed in a future OIG or GAO report of a national scope or listed in a future CERT DME and/or DMEPOS Service Specific Report(s).

- Items remain on the Master List for 10 years from the date the item was added to the Master List.

- Items are updated on the Master List when the Healthcare Common Procedure Coding System (HCPCS) codes representing an item have been discontinued and cross-walked to an equivalent item.

- Items are removed from the list sooner than 10 years if the purchase amount drops below the “payment threshold”.

- Items that age off the Master List because they have been on the list for 10 years can remain on or be added back to the Master List if a subsequent GAO/OIG, or CERT DME and/or DMEPOS Service Specific Report(s) identifies the item to be frequently subject to unnecessary utilization.

- Items already on the Master List that are identified by a GAO/OIG, or CERT DME and/or DMEPOS Service Specific Report(s) will remain on the list for 10 years from the publication date of the new report(s).

- We will notify the public annually of any additions and deletions from the Master List by posting the notification in the **Federal Register** and on the CMS Prior Authorization website.

## II. Provisions of the Document

In the December 30, 2015 final rule (80 FR 81674), we stated that we would notify the public annually of any additions and deletions from the Master List by posting the notification in the

**Federal Register** and on the CMS Prior Authorization website.

This document is to provide the annual update to the Master List of Items Frequently Subject to Unnecessary Utilization.

As noted previously, we adjust the “payment threshold” each year for inflation. More specifically, we stated in the preamble to the December 2015 final rule (80 FR 81679) that we will apply the same percentage adjustment to the “payment threshold” as we do to the DMEPOS fee schedule. In accordance with section 1834(a)(14) of the Act, certain DMEPOS fee schedule amounts are updated annually by the percentage increase in the consumer price index for all urban consumers (United States city average) or CPI-U for the 12-month period ending June 30 of the previous year, adjusted by the change in the economy-wide productivity equal to the 10-year moving average of changes in annual economy-wide private non-farm business multifactor productivity (MFP). We use this same methodology to adjust the Master List Payment Threshold for inflation.

For calendar year (CY) 2017, the MFP adjustment is 0.3 percent and the CPI-U percentage increase is 1 percent. Thus, the 1 percentage increase in the CPI-U is reduced by the 0.3 percentage increase in the MFP resulting in a net increase of 0.7 percent to be used as the update factor. We applied the 0.7 percent update factor to the average purchase fee of \$1,000, resulting in a CY 2017 adjusted “payment threshold” of \$1,007 ( $\$1,000 \times 1.007$ ). We also applied the 0.7 percent update factor to the average monthly rental fee of \$100,

resulting in an adjusted “payment threshold” of \$100.70 ( $\$100 \times 1.007$ ). Rounding this figure to the nearest whole dollar amount resulted in a CY 2017 adjusted monthly rental fee threshold amount of \$101.

For CY 2018, the MFP adjustment is 0.5 percent and the CPI-U percentage increase is 1.6 percent. Thus, the 1.6 percentage increase in the CPI-U is reduced by the 0.5 percentage increase in the MFP resulting in a net increase of 1.1 percent to be used as the update factor. We applied the 1.1 percent update factor to the CY 2017 average purchase fee of \$1,007, resulting in a CY 2018 adjusted “payment threshold” of \$1,018.07 ( $\$1,007 \times 1.011$ ). Rounding this figure to the nearest whole dollar amount resulted in a CY 2018 adjusted “payment threshold” amount of \$1,018. We also applied the update factor of 1.1 percent to the CY 2017 average monthly rental fee of \$101, resulting in an adjusted “payment threshold” of \$102.11 ( $\$101 \times 1.011$ ). Rounding this figure to the nearest whole dollar amount resulted in a CY 2018 adjusted monthly rental fee threshold of \$102.

This update does not reflect any additions because there are no new items that meet the updated “payment threshold” that are listed in an OIG or GAO report of a national scope or a CERT DME and/or DMEPOS Service Specific Report(s). The following four HCPCS codes are removed from the Master List of Items Frequently Subject to Unnecessary Utilization because they no longer have a DMEPOS Fee Schedule price of \$1,018 or greater or an average monthly rental fee schedule of \$102 or greater:

HCPCS	Description
E0260 .....	Hospital bed semi-electric (head and foot adjustment) with any type side rails with mattress.
E0601 .....	Continuous Airway Pressure (CPAP) Device.
E1390 .....	Oxygen Concentrator.
K0004 .....	High strength, lightweight wheelchair.

The full updated list is also available in the download section of the following CMS website: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/DMEPOS/Prior-Authorization-Process-for-Certain-Durable-Medical-Equipment-Prosthetic-Orthotics-Supplies-Items.html>.

## III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements.

Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## IV. Regulatory Impact Statement

We have examined the impact of this action as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section

202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). This document does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than \$7.5 million to \$38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this document will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this action will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. Currently, that threshold is approximately \$148 million. This action will have no consequential effect on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. Since this action does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017 and requires that the costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.” OMB’s interim guidance, issued on April 5, 2017, <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf>, explains that for Fiscal Year 2017 the above requirements only apply to each new “significant regulatory action that imposes costs.” It has been determined that this document is not a “significant regulatory action” and thus does not trigger the aforementioned requirements of Executive Order 13771.

In accordance with the provisions of Executive Order 12866, this document was reviewed by the Office of Management and Budget.

Dated: February 28, 2018.

**Seema Verma,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2018–06552 Filed 3–29–18; 8:45 am]

**BILLING CODE 4120–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 74, 76, and 78

[MB Docket No. 17–231; FCC 18–16]

#### Maintenance of Copies of FCC Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) eliminates rules that require certain broadcast and cable entities to maintain paper copies of the Commission’s regulations. As set forth below, we conclude that eliminating these requirements, which apply to low power TV, TV and FM translators, TV and FM booster stations, cable television relay station (CARS) licensees, and certain cable operators, will advance the Commission’s goal of reducing outdated regulations and unnecessary regulatory burdens that can impede competition and innovation in media markets.

**DATES:** Effective March 30, 2018.

**FOR FURTHER INFORMATION CONTACT:** For additional information, contact Jonathan Mark, [Jonathan.Mark@fcc.gov](mailto:Jonathan.Mark@fcc.gov), of the Media Bureau, Policy Division, (202)

418–3634. Direct press inquiries to Janice Wise at (202) 418–8165.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Report and Order (Order), FCC 18–16, adopted and released on February 20, 2018. The full text of this document is available electronically via the FCC’s Electronic Document Management System (EDOCS) website at [http://fjallfoss.fcc.gov/edocs\\_public/](http://fjallfoss.fcc.gov/edocs_public/) or via the FCC’s Electronic Comment Filing System (ECFS) website at <http://fjallfoss.fcc.gov/ecfs2/>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission’s copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

#### Synopsis

##### I. Report and Order

1. In this Order, we eliminate rules that require certain broadcast and cable entities to maintain paper copies of the Commission’s regulations. As part of our initiative to modernize our media regulations, we issued a Notice of Proposed Rulemaking (NPRM) proposing to eliminate requirements that regulatees maintain copies of certain portions of the Code of Federal Regulations (CFR). We received unanimous support for this proposal. As set forth below, we conclude that eliminating these requirements, which apply to low power TV, TV and FM translators, TV and FM booster stations, cable television relay station (CARS) licensees, and certain cable operators, will advance the Commission’s goal of reducing outdated regulations and unnecessary regulatory burdens that can impede competition and innovation in media markets.

2. We adopt the proposal to eliminate the requirement, set forth in § 74.769 of our rules, that licensees or permittees of