potato ALS protein. The assay adequately detects StmALS in potato leaf and tuber tissues.

C. Conclusion

Based upon its evaluation in the Human Health Risk Assessment, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of StmALS protein in potatoes. Therefore, an exemption from the requirement of a tolerance is established for residues of StmALS protein in potato when used in accordance with label directions and good agricultural practices.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. 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 action has been exempted from review under Executive Order 12866, this action 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 action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 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 exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA 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, EPA 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 (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note).

V. 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 174

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

Dated: March 7, 2023.

Edward Messina,

Director, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 174—PROCEDURES AND REQUIREMENTS FOR PLANT-INCORPORATED PROTECTANTS

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 174.544 to subpart W to read as follows:

§ 174.544 Modified Potato Acetolactate Synthase (StmALS) in potato; exemption from the requirement of a tolerance.

Residues of modified potato acetolactate synthase (StmALS) in potato are exempt from the requirement of a tolerance when used as a plant-incorporated protectant inert ingredient.

[FR Doc. 2023–04979 Filed 3–14–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 414, 415, 423, 424, 425, and 455

[CMS–1770–F2]

RIN–0938–AU81

Medicare and Medicaid Programs, CY 2023 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Implementing Requirements for Manufacturers of Certain Single-Dose Container or Single-Use Package Drugs To Provide Refunds With Respect to Discarded Amounts; and COVID–19 Interim Final Rules; Corrections

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

ACTION: Final rule; correction and correcting amendment.

SUMMARY: In the November 18, 2022 issue of the **Federal Register**, we published a final rule entitled ''Medicare and Medicaid Programs; CY 2023 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Implementing Requirements for Manufacturers of Certain Single-dose Container or Single-use Package Drugs To Provide Refunds With Respect to Discarded Amounts; and COVID–19 Interim Final Rules'' (referred to hereafter as the ''CY 2023 PFS final rule''). The effective date was January 1, 2023. This document corrects a limited number of technical and typographical errors identified in the November 18, 2022 final rule.

DATES: This document is effective March 15, 2023, and is applicable beginning January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Terri Plumb, (410) 786–4481, Gaysha

Brooks (410) 786–9649 or Annette Brewer (410) 786–6580.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2022–23873 of November 18, 2022, the CY 2023 PFS final rule (87 FR 69404), there were technical errors that are identified and corrected in this correcting document. These corrections are applicable as if they had been included in the CY 2023 PFS final rule, which was effective January 1, 2023.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 69413, in the entry ''(6) Equipment Cost per Minute,'' we made a typographical error in the equipment cost per minute formula.

On pages 69596 and 69597, due to technical errors in the calculations of the time thresholds, there were errors in the description of times for reporting prolonged inpatient/observation services for code G0316.

On page 69614, in Table 24: Required Time Thresholds to Report Other E/M Prolonged Services, due to technical errors in the calculations of the time thresholds, there were errors in the description of times for reporting prolonged inpatient/observation services for code G0316.

On page 70032, the titles of two new neurological MVPs that read ''Optimal Care for Neurological Conditions'' and ''Supportive Care for Cognitive-Based Neurological Conditions'' contain typographical errors.

On page 70037, the titles of two new neurological MVPs that read ''Optimal Care for Neurological Conditions'' and ''Supportive Care for Cognitive-Based Neurological Conditions'' contain typographical errors.

On page 70083, Table 94: Exclusion Redistribution for Performance Period in CY 2023, we inadvertently included a typographical error in the number of measures.

On page 70204, we inadvertently omitted an appendix number and included typographical errors in the titles of two new neurological MVPs.

B. Summary of Errors in the Regulatory Text

On page 70227, we made a typographical error in the regulation text of § 414.940. We inadvertently labeled two paragraphs as paragraph (e).

On page 70228, in amendatory instruction 31.b, we inadvertently omitted language specifying that the revisions to § 414.1380(e)(6)(v) were related to the introductory text only of that section and not to paragraphs (e)(6)(v)(A) and (B) of that section.

C. Summary of Errors in the Appendix

On page 70653, we inadvertently included a reference to footnote ''7''.

III. Waiver of Proposed Rulemaking

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (the APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in the effective date of a rule after issuance or publication. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions to the APA notice and comment requirement and the delay in the effective date requirement. In cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice requirement, the 60-day comment period requirement, and the delay in effective date requirement of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in the effective date of a rule where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects technical errors in the CY 2023 PFS final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed, subject to notice and comment procedures, and adopted in the CY 2023 PFS final rule. As a result, the corrections made through this correcting document are intended to resolve inadvertent errors so that the rule accurately reflects the policies adopted in the final rule. Even if this were a rulemaking to which the notice and comment 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 CY 2023 PFS final rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received public comment on, and subsequently finalized in the final rule. For these reasons, we believe there would be good cause to waive the requirements for notice and comment and delay in effective date, if notice and comment procedures and the delay in effective date were required at all.

IV. Correction of Errors

A. Correction of Errors in the Preamble

1. On page 69413, third full column, first paragraph, line 5, the line that reads ''((interest rate/(1 (1/((1 + interest'' is corrected to read ((interest rate/(1 − (1/((1 + interest''.

2. On page 69596, third column, the last line that reads ''for base code CPT code 99223 when 105'' is corrected to read ''for base code CPT code 99223 when 90''.

3. On page 69596, last column, last paragraph and continuing through the first column, second full paragraph on page 69597, the language that reads: ''Thus, a practitioner could bill G0316 for base code CPT code 99223 when 105 minutes is reached for an initial visit on the date of encounter. For the purposes of applying the proposed prolonged code, the CPT code 99223 total time is rounded to 75 minutes on the date of encounter. The prolonged service period would begin at 90 minutes, 15 minutes beyond 75 minutes. A practitioner would bill HCPCS code G0316 once the 15-minute increment for G0316 is completed, at minute 105.

A practitioner could bill G0316 for the base code CPT code 99233 when 80 minutes is reached for a subsequent visit on the date of encounter. For the purposes of applying the prolonged code, the CPT code 99233 total time is rounded to 50 minutes on the date of encounter. The prolonged service period would begin at 65 minutes, 15 minutes beyond 50 minutes. A practitioner would bill HCPCS code G0316 once the

15-mimute increment for G0316 is completed, at minute 80.

A practitioner could bill HCPCS code G0316 for base code CPT code 99236 at 125 minutes for same-day discharge. For the purposes of applying the prolonged code, the CPT code 99236 total time is rounded to 95 minutes completed within 3 calendar days of the encounter. The prolonged service period would begin at 110 minutes, 15 minutes beyond 95 minutes. A practitioner could bill HCPCS code G0316 once the 15-minute increment for G0316 is completed, at minute 125,'' is corrected to read: ''Thus, a practitioner could bill G0316 for base code CPT code 99223 when 90 minutes is furnished for an initial visit on the date of encounter. For the purposes of applying the proposed prolonged code, the CPT code 99223 total time is rounded to 75 minutes on the date of encounter. A single prolonged service period would end after 90 minutes, 15 minutes beyond 75 minutes. A practitioner would bill HCPCS code G0316 once the 15-minute increment for G0316 is completed, when 90 minutes has been furnished.

A practitioner could bill G0316 for the base code CPT code 99233 when 65 minutes is furnished for a subsequent visit on the date of encounter. For the purposes of applying the prolonged code, the CPT code 99233 total time is rounded to 50 minutes on the date of encounter. A single prolonged service period would end after 65 minutes, 15 minutes beyond 50 minutes. A practitioner would bill HCPCS code G0316 once the 15-minute increment for G0316 is completed, when 65 minutes has been furnished.

A practitioner could bill HCPCS code G0316 for base code CPT code 99236 at 110 minutes for same-day discharge. For the purposes of applying the prolonged code, the CPT code 99236 total time is rounded to 95 minutes completed within 3 calendar days of the encounter. A single prolonged service period would end after 110 minutes, 15 minutes beyond 95 minutes. A practitioner could bill HCPCS code G0316 once the 15-minute increment for G0316 is completed, when 110 minutes has been furnished.''

4. On page 69614, in Table 24: Required Time Thresholds to Report Other E/M Prolonged Services, the third column, rows 2, 3, and 4 that read:

Primary E/M service	Prolonged code *	Time threshold to report prolonged (minutes)	Count physician/NPP time spent within this timeframe (surveyed timeframe)
Initial IP/Obs. Visit (99223)	G0316	105	Date of visit.
Subsequent IP/Obs. Visit (99233)	G0316	80	Date of visit.
IP/Obs. Same-Day Admission/Discharge (99236)	G0316	125	Date of visit to 3 days after.

are corrected to read:

Primary E/M service	Prolonged code *	Time threshold to report prolonged (minutes)	Count physician/NPP time spent within this timeframe (surveyed timeframe)
Initial IP/Obs. Visit (99223)	G0316	90	Date of visit.
Subsequent IP/Obs. Visit (99233)	G0316	65	Date of visit.
IP/Obs. Same-Day Admission/Discharge (99236)	G0316	110	Date of visit to 3 days after.

5. On page 70032, third column, third full paragraph:

a. Lines 15 and 16, the bullet that reads ''Optimal Care for Neurological Conditions'' is corrected to read ''Optimal Care for Patients with Episodic Neurological Conditions''.

b. Lines 17 and 18, the bullet that reads ''Supportive Care for Cognitive-Based Neurological Conditions'' is corrected to read ''Supportive Care for Neurodegenerative Conditions''.

6. On page 70037, third column, third full paragraph:

a. Lines 11 and 12, the bullet that reads ''Optimal Care for Neurological Conditions'' is corrected to read ''Optimal Care for Patients with Episodic Neurological Conditions''.

b. Lines 13 and 14, the bullet that reads ''Supportive Care for Cognitive-Based Neurological Conditions'' is corrected to read ''Supportive Care for Neurodegenerative Conditions''.

7. On page 70083, Table 94: Exclusion Redistribution for Performance Period in CY 2023, second column; last row, that reads ''Report the following five measures:'' is corrected to read ''Report the following two measures:''

8. On page 70204:

a. Second column, last full paragraph, line 5 that reads ''the new MVPS in Appendix X of this'' is corrected to read ''the new MVPS in Appendix 3 of this''.

b. Third column, lines 2 and 3, the bullet that reads ''Optimal Care for Neurological Conditions'' is corrected to read ''Optimal Care for Patients with Episodic Neurological Conditions''.

c. Third column, lines 4 and 5, the bullet that reads ''Supportive Care for Cognitive-Based Neurological Conditions'' is corrected to read ''Supportive Care for Neurodegenerative Conditions.''

B. Correction of Errors in the Appendix

On page 70653, first full paragraph, line 2, the reference to footnote ''7'' is removed and replaced with the following link added in its place: *https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/02/fact-sheet-president-biden-reignites-cancer-moonshot-to-end-cancer-as-we-know-it/.*

List of Subjects in 42 CFR Part 414

Administrative practice and procedure, Biologics, Diseases, Drugs, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, CMS corrects 42 CFR part 414 by making the following correcting amendments:

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

■ 1. The authority citation for part 414 continues to read as follows:

Authority: 42 U.S.C. 1302, 1395hh, and 1395rr(b)(l).

■ 2. Amend § 414.940 by redesignating the second paragraph ''(e)'' as paragraph ''(f)''.

■ 3. Amend § 414.1380 by adding paragraphs (e)(6)(v)(A) and (B) to read as follows:

§ 414.1380 Scoring.

* * * * *

(e) * * *

(6) * * *

(v) * * *

(A) Other cost measures. MIPS eligible clinicians who are scored under facility-based measurement are not scored on cost measures described in paragraph (b)(2) of this section.

(B) [Reserved]

* * * * *

Elizabeth J. Gramling,

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

[FR Doc. 2023–04961 Filed 3–14–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2021–0029; FF09E21000 FXES1111090FEDR 234]

RIN 1018–BF69

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Bog Buck Moth

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status under the Endangered Species Act of 1973 (Act), as amended, for the bog buck moth (*Hemileuca maia menyanthevora*) (=*H. iroquois*), a moth that occurs in Oswego County, New York, and Ontario, Canada. This rule adds the bog buck moth to the List of Endangered and Threatened Wildlife and applies the protections of the Act to this species. We have determined that designation of critical habitat for the bog buck moth is not prudent at this time.

DATES: This rule is effective April 14, 2023.

ADDRESSES: This final rule is available on the internet at *https://www.regulations.gov.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *https://www.regulations.gov* at Docket No. FWS–R5–ES–2021–0029.

FOR FURTHER INFORMATION CONTACT: Ian Drew, Acting Field Supervisor, U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, NY 13045; telephone 607–753–9334. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become endangered within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the bog buck moth meets the definition of an endangered species; therefore, we are listing it as such. We have determined that designating critical habitat is not prudent at this time. Listing a species as an endangered or threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. This final rule adds the bog buck moth (*Hemileuca maia menyanthevora*) (=*H. iroquois*) to the List of Endangered and Threatened Wildlife.

The basis for our action. Under the Act, we may determine that a species is an endangered species or a threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the bog buck moth is endangered due to a combination of factors. Bog buck moth populations undergo boom and bust cycles and are highly vulnerable to threats during the bust phase (Factor E). All populations are isolated from one another (Factor E). All extant populations are experiencing some degree of habitat alteration from invasive plant species and habitat succession (Factor A). Flooding may drown various life stages of the bog buck moth or reduce suitable habitat either by directly making it unavailable (under water) or reducing survival and growth of bog buckbean, an important food source for the bog buck moth larvae (Factor A). Flooding has increased at one New York population over the past several years due to increased winter and spring precipitation from climate change and high Great Lakes water levels (Factor E). Water level management has altered or has the potential to alter several bog buck moth sites (Factor A). Additionally, the sedentary nature of the bog buck moth means that colonization of neighboring fens does not occur naturally, further limiting the species' ability to respond to stochastic changes (Factor E).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. We have determined that designating critical habitat for the bog buck moth is not prudent because the moth co-occurs with another species that is highly collected and designating critical habitat for the moth would increase the risk of collection for the other species. In addition, the methods used to collect the co-occurring species can be expected to cause harm to the bog buck moth from disturbance and trampling of individuals (eggs, larvae, pupae) and to vegetation necessary as a host plant and for sheltering of all life stages. This disturbance can also be expected to damage vegetation necessary for any potential reintroductions of moths at the currently unoccupied site.

Previous Federal Actions

Please refer to the October 14, 2021, proposed listing rule (86 FR 57104) for a detailed description of previous Federal actions concerning the bog buck moth.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the bog buck moth. The SSA team, composed of Service biologists and a New York State Department of Environmental Conservation (NYSDEC) biologist, conducted the SSA in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.