

TABLE 7—FINAL BENCHMARKS FOR THE FY 2014 HOSPITAL VBP PROGRAM MORTALITY OUTCOME MEASURES  
[Displayed as survival rates]

Measure ID	Measure description	Benchmark
<b>Mortality Outcome Measures</b>		
MORT-30-AMI .....	Acute Myocardial Infarction (AMI) 30-Day Mortality Rate .....	.8673
MORT-30-HF .....	Heart Failure (HF) 30-Day Mortality Rate .....	.9042
MORT-30 PN .....	Pneumonia (PN) 30-Day Mortality Rate .....	.9021

8. On page 26527, in the first column; the section heading “G. Applicability of the Value-Based Purchasing Program” Hospitals is corrected to read “F. Applicability of the Value-Based Purchasing Program to Hospitals”.

9. On page 26531, in the first column; the section heading “H. Exchange Function” is corrected to read “G. The Exchange Function”.

10. On page 26534, in the second column; the section heading “I. Hospital Notification and Review Procedures” is corrected to read “H. Hospital Notification and Review Procedures”.

11. On page 26536, in the third column; the section heading “J. Reconsideration and Appeal Procedures” is corrected to read “I. Reconsideration and Appeal Procedures”.

12. On page 26537, in the first column; the section heading “K. FY 2013 Validation Requirements for Hospital Value-Based Purchasing” is corrected to read “J. FY 2013 Validation Requirements for Hospital Value-Based Purchasing”.

13. On page 26538, in the first column; the section heading “L. Additional Information” is corrected to read “K. Additional Information”.

14. On page 26539, in the second column; the section heading “M. QIO Quality Data Access” is corrected to read “L. QIO Quality Data Access”.

#### IV. Waiver of Proposed Rulemaking

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.

This notice merely corrects technical and typographic errors in the Hospital Inpatient Value-Based Purchasing Program final rule that was published on May 6, 2011 and becomes effective on July 1, 2011. The changes are not substantive changes to the policies or payment methodologies. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections and delaying the effective date of these changes is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay the dissemination of it. For the reasons stated above, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

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

Dated: June 28, 2011.

**Dawn L. Smalls,**

*Executive Secretary to the Department.*

[FR Doc. 2011-16763 Filed 7-1-11; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary of the Interior

#### 43 CFR Part 10

**RIN 1024-AD98**

#### **Native American Graves Protection and Repatriation Act Regulations—Definition of “Indian Tribe”**

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This amendment to the Department’s regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) removes the definition of “Indian tribe,” because it is inconsistent with the statutory definition of that term.

**DATES:** This rule is effective July 5, 2011. Comments must be received by September 6, 2011.

**ADDRESSES:** You may submit comments, identified by the Regulation Identifier Number (RIN) 1024-AD98, by any of the following methods:

—*Federal rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

—*Mail to:* Dr. Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street, NW., (2253), Washington, DC 20005.

—*Hand deliver to:* Dr. Sherry Hutt, 1201 Eye Street, NW., 8th floor, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street, NW., 8th floor, Washington, DC 20005, telephone (202) 354-1479, facsimile (202) 371-5197.

#### **SUPPLEMENTARY INFORMATION:**

##### **Authority**

The Secretary is responsible for implementation of the Native American Graves Protection and Repatriation Act, including the issuance of appropriate regulations implementing and interpreting its provisions. See 25 U.S.C. 3001 *et seq.*

##### **Background**

The Native American Graves Protection and Repatriation Act (NAGPRA) addresses the rights of lineal descendants, Indian Tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. NAGPRA defines “Indian tribe” as “any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act) (43

U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians” (25 U.S.C. 3001(7)).

The Department of the Interior (Department) published the initial rules to implement NAGPRA on December 4, 1995 (60 FR 62158). These rules defined “Indian tribe” to include, in addition to any Alaska Native village, any Alaska Native corporation (43 CFR 10.2(b)(2)).

From July 2009 to July 2010, at the request of Congress, the Government Accountability Office (GAO) conducted a performance audit to address the status of NAGPRA implementation among Federal agencies. In its report, *Native American Graves Protection and Repatriation Act: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act* (Report no. GAO-10-768 (July 2010); GAO Report), the GAO recommended, among other things, that the National NAGPRA Program, in conjunction with the Department’s Office of the Solicitor, reassess whether any Alaska Native corporations should be considered as “eligible entities for purposes of carrying out NAGPRA. \* \* \*” (GAO Report, at 55).

The recommendation and analysis in the GAO report have engendered significant uncertainty on the part of museums and Federal agencies concerning the status of Alaska Native corporations under NAGPRA. The Department has received a number of questions including whether Alaska Native corporations may assert claims for human remains and other cultural items; whether the NAGPRA requirements for consultation with Indian Tribes apply to Alaska Native corporations; whether Alaska Native corporations are authorized under the law to bring matters to the NAGPRA Review Committee; and whether Alaska Native corporations can be recipients of grants authorized by NAGPRA.

To address these questions, and as recommended by GAO, the Department’s Office of the Solicitor examined the legal basis for the existing regulatory provision that included Alaska Native corporations as Indian Tribes under the Act. The opinion of the Solicitor’s Office is posted on the National NAGPRA Program’s Web site at [http://www.nps.gov/history/nagpra/DOCUMENTS/Solicitors\\_Memo\\_ANCSA\\_03182011.pdf](http://www.nps.gov/history/nagpra/DOCUMENTS/Solicitors_Memo_ANCSA_03182011.pdf). The Solicitor’s Office found that Congress did not import the definition of “Indian tribe” into NAGPRA verbatim from the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b;

ISDEAA). Whereas the ISDEAA definition includes Alaska Native corporations, the NAGPRA definition does not. According to the legislative history of NAGPRA, the definition of “Indian tribe” in the Act was deliberately changed from that in the ISDEAA in order to “delete[] land owned by any Alaska Native Corporation from being considered as ‘tribal land’” (136 Cong. Rec. 36,815 (1990)). The Solicitor’s Office “therefore strongly recommend[ed] that the regulatory definition of ‘Indian tribe’ be changed as soon as feasible to conform to the statutory definition.” This interim final rule implements that recommendation by deleting the regulatory definition of “Indian tribe.” The effect of the removal of the definition from the regulations is that we will now use only the statutory definition of “Indian tribe” in implementing NAGPRA.

#### **Compliance With Other Laws and Executive Orders**

##### *Regulatory Planning and Review (Executive Order 12866)*

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

##### *Regulatory Flexibility Act (RFA)*

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

##### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local or Tribal government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

##### *Unfunded Mandates Reform Act (UMRA)*

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or Tribal governments, or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

##### *Takings (Executive Order 12630)*

Under the criteria in Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. No taking of personal property will occur as a result of this rule.

##### *Federalism (Executive Order 13132)*

Under the criteria in Executive Order 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

##### *Consultation With Indian Tribes (Executive Order 13175)*

Under the criteria in Executive Order 13175 we have evaluated this rule and determined that it has no potential effects on Federally recognized Indian Tribes.

##### *Paperwork Reduction Act (PRA)*

This regulation does not contain information collection requirements, and a submission under the PRA is not required.

##### *National Environmental Policy Act (NEPA)*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required because the rule is covered by a categorical exclusion under 43 CFR 46.210(i), “Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too

broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case." We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

#### *Information Quality Act (IQA)*

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 105–554).

#### *Effects on the Energy Supply (Executive Order 13211)*

The rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

#### **Determination To Issue an Interim Final Rule With Immediate Effective Date**

The Department is publishing this rule as an interim final rule with request for comment, but without prior notice and opportunity for comment, as allowed by the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)). Under this provision, an agency may issue a regulatory action without notice and an opportunity for comment when the agency, for good cause, finds that the notice and comment procedures are "impracticable, unnecessary or contrary to the public interest." The Department for good cause finds that prior notice and comment are unnecessary because this rule amends the existing rule to conform with the Act. See, e.g., *Komjathy v. National Transp. Safety Bd.*, 832 F.2d 1294, 1296–1297 (DC Cir. 1987), and *Gray Panthers Advocacy Committee, et al. v. Sullivan*, 936 F.2d 1284 (DC Cir. 1991). Under 5 U.S.C. 553(d)(3), the Department for good cause finds that this rule should be made effective upon publication in the **Federal Register**, rather than after the usual 30-day period. This finding is based on the uncertainty caused by the GAO report described above and the need to ensure compliance with the requirements of the Act.

The Department is requesting comments on this interim final rule. The Department will review any comments received and anticipates responses to comments in either a new final rule or in a future proposed rulemaking also addressing other substantive changes to the regulations found at 43 CFR part 10.

#### **Drafting Information**

This interim final rule was prepared by staff of the National NAGPRA Program and of the Office of the Solicitor, Divisions of Parks and Wildlife and Indian Affairs.

#### **Public Participation**

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this interim final rule to the address noted at the beginning of this rulemaking.

#### **Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### **List of Subjects in 43 CFR Part 10**

Administrative practice and procedure, Graves, Hawaiian Natives, Historic preservation, Indians—claims, Museums, Reporting and recordkeeping requirements, Repatriation.

In consideration of the foregoing, the Department of the Interior amends 43 CFR part 10 as follows:

#### **PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REGULATIONS**

- 1. The authority for part 10 continues to read as follows:

**Authority:** 25 U.S.C. 3001 *et seq.*

#### **§ 10.2 [Removed and Reserved]**

- 2. In § 10.2, remove and reserve paragraph (b)(2).

Dated: June 7, 2011.

**Rachel Jacobson,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2011–16788 Filed 7–1–11; 8:45 am]

**BILLING CODE 4312–50–P**

#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Federal Emergency Management Agency**

#### **44 CFR Part 65**

[Docket ID FEMA–2011–0002]

#### **Changes in Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) [luis.rodriquez1@dhs.gov](mailto:luis.rodriquez1@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.