

restrictions; or discontinue disposal activities. EPA expects that the SMMP will be revised and updated from time to time based on monitoring results, scientific advancements, and experience gained. EPA is committed to considering public comments prior to implementing substantive updates to the SMMP. To ensure that interested parties have the opportunity to comment, proposed substantive updates to the SMMP will be distributed in draft form via a Public Notice or similar means.

**E. Action**

EPA Region IX has determined that there is a need for an ocean dredged material disposal site in the vicinity of Humboldt Bay, California. Based on evaluation of alternatives, EPA Region IX has tentatively determined that the HOODS may appropriately be designated for use over a period of 50 years. The designation of the HOODS complies with the general and specific criteria used for site evaluation. EPA, therefore, designates the HOODS as an EPA-approved Ocean Dumping Site in this final rulemaking. Management of this site will be the responsibility of the Regional Administrator of EPA Region IX in cooperation with the Corps' South Pacific Division Engineer and the San Francisco District Engineer, based on requirements defined in the Final EIS and Final Rule. The required management and monitoring activities is described in a SMMP prepared by EPA and incorporated in the Final EIS. Subsequent substantive revisions of the SMMP will be published and subjected to public review.

It is emphasized that ocean dumping site designation does not constitute or imply EPA Region IX's or the Corps San Francisco District's approval of actual ocean disposal of dredged materials. Before ocean dumping of dredged material at the site may begin, EPA Region IX and the Corps San Francisco District must evaluate permit applications according to EPA's Ocean Dumping Criteria. Permits cannot be issued if either EPA Region IX or the Corps San Francisco District determines that the Ocean Dumping Criteria of MPRSA would not be met. The requirement for compliance with the Ocean Dumping Criteria of the MPRSA may not be superseded by the provisions of any future comprehensive regional management plan for dredged material.

**F. Regulatory Assessments**

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all Rules which

may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on a substantial number of small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this Final Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

This action will not result in an annual effect on the economy of \$100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a major Rule. Consequently, this Final Rule does not necessitate preparation of a Regulatory Impact Analysis.

**G. Comments on the Site Designation Proposed Rule and the Final EIS**

The 45-day comment period for the Proposed Rule ended on June 6, 1995. The Final EIS was available for a 30-day public review which ended on September 5, 1995. No comments were received by EPA Region IX regarding the Proposed Rule or Final EIS.

**List of Subjects in 40 CFR Part 228**

Environmental protection, Water pollution control.

Dated: September 19, 1995.  
 Felicia A. Marcus,  
*Regional Administrator, EPA Region IX.*

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below.

**PART 228—[AMENDED]**

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by adding paragraph (l)(10) to read as follows:

**§ 228.15 Dumping sites designated on a final basis.**

\* \* \* \* \*

(l) \* \* \*

(10) Humboldt Open Ocean Disposal Site (HOODS) Ocean Dredged Material Disposal Site—Region IX.

(i) Location: The coordinates of the corners of the square site are: 40°48'25" North latitude (N) by 124°16'22" West longitude (W); 40°49'03" N by 124°17'22" W; 40°47'38" N by 124°17'22" N; and 40°48'17" N by 124°18'12" W (North American Datum from 1983).

(ii) Size: 1 square nautical mile (3 square kilometers).

(iii) Depth: Water depths within the area range between approximately 160 to 180 feet (49 to 55 meters).

(iv) Use Restricted to Disposal of: Dredged materials.

(v) Period of Use: Continuing use over 50 years from date of site designation, subject to restrictions and provisions set forth in paragraph (l)(10)(vi) of this section.

(vi) Restrictions/Provisions: Site management and monitoring activities shall be implemented during the period of site use and in accordance with the Site Management and Monitoring Plan (SMMP) for the HOODS as incorporated in the Final EIS, and summarized in Section D of this final rule. All disposal activities shall be terminated if monitoring, as described in the SMMP, is not implemented. The SMMP may be periodically revised as necessary; proposed substantive revisions to the SMMP shall be made following opportunity for public review and comment.

\* \* \* \* \*

[FR Doc. 95-24039 Filed 9-27-95; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 300**

[FRL-5304-1]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of deletion of the Pesses Chemical Company Site (Site) from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) announces the deletion of the Pesses Chemical Company Site in Fort Worth, Tarrant County, Texas from the National Priorities List (NPL). The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), as amended. EPA and the State of Texas have determined that all appropriate Superfund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of Texas have determined that response activities conducted at the Site to date have been protective of public health, welfare, and the environment.

**EFFECTIVE DATE:** September 28, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Earl G. Hendrick, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8519 or 1-800-533-3508.

**SUPPLEMENTARY INFORMATION:** The Site to be deleted from the NPL is: Pesses Chemical Company Site, Fort Worth, Tarrant County, Texas, also known as the Pesses Company (S'West) Site.

A Notice of Intent to Delete for this Site was published on April 17, 1995, (60 FR 19203). The closing date for comments on the Notice of Intent to Delete was June 13, 1995. EPA received no letters or comments during the deletion period which opposed the deletion of this Site from the NPL. EPA received one telephone inquiry requesting information about the Site. A summary of this telephone conversation has been included in the EPA, Region 6, Deletion Docket for the Site.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP, provides that in the event of a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the Hazard Ranking System. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response actions.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Hazardous waste.

Dated: September 13, 1995.

A. Stanley Meiburg,

*Acting Regional Administrator,  
Environmental Protection Agency, Region 6.*

40 CFR part 300 is amended as follows:

#### **PART 300—[AMENDED]**

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 2 FR 2923, 3 CFR 1987 Comp., p. 193.

#### **Appendix B—[Amended]**

2. Table 1 of Appendix B to part 300 is amended by removing Pesses

Chemical Company Site, Fort Worth, Tarrant County, Texas.

[FR Doc. 95-24037 Filed 9-27-95; 8:45 am]

BILLING CODE 6560-50-P

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Health Care Financing Administration**

#### **42 CFR Parts 431, 440, 442, 488, 489, and 498**

[HSQ-156-CN]

RIN 0938-AD94

#### **Medicare and Medicaid Programs; Survey, Certification and Enforcement of Skilled Nursing Facilities and Nursing Facilities**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rule and correction to final regulations.

**SUMMARY:** In the November 10, 1994 issue of the Federal Register (FR Doc. 94-27703) (59 FR 56116), we established rules for survey of skilled nursing facilities that participate in the Medicare program, and nursing facilities that participate in the Medicaid program. We also established remedies that we impose on facilities that do not comply with Federal participation requirements, as alternatives to program termination. This document corrects errors made in that document.

**EFFECTIVE DATE:** This correction and amendments to §§ 493.53 and 493.90 are effective on July 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Deborah Kaplan Schoenemann (410) 786-6771.

**SUPPLEMENTARY INFORMATION:** On November 10, 1994, we published in the Federal Register, at 59 FR 56116, a final rule which established significant revisions to the process we use to survey skilled nursing facilities that participate in the Medicare program, and nursing facilities that participate in the Medicaid program. The rule also established remedies that we impose on facilities that do not comply with the Federal participation requirements, as alternatives to program termination. This notice corrects both typographical and technical errors made in that document.

#### **I. Technical Corrections**

In § 431.153(a), we are correcting an inadvertent error in terminology. Paragraph (a) states that, for actions specified in § 431.151, the "Medicaid

agency" must give a provider the opportunity for a full evidentiary hearing. This change in reference was unintentional since we never intended to limit the latitude that States have had for many years under the existing regulation. The existing regulation provided only that the "State" had the hearing responsibility thereby leaving it to the discretion of each State how best to organize its hearing system. Some States chose to have the Medicaid agency conduct hearings, while others have left this responsibility to the survey agencies. We are correcting this regulation by restoring the original language as intended.

In §§ 442.13 and 489.13, we inadvertently carried forward provisions pertaining to the effective date of a provider agreement that we have had for many years, and that are inconsistent with other provisions of the November 10, 1994 rule. Sections 442.13 and 489.13, which cut across provider types, specify that a provider agreement is effective on the date that the provider meets all requirements or the date on which it meets condition level requirements with an acceptable plan of correction for lower level standard requirements, whichever is earlier. Because there are no longer standard level requirements for nursing homes, and because the definition of substantial compliance has been significantly redrawn, we need to conform these sections to reflect the new standard of compliance for nursing homes.

Under the rule published on November 10, 1994, a nursing home may continue to participate in the Medicare or Medicaid programs if it is in substantial compliance with Federal requirements. Because this standard is stricter than its predecessor, we now realize that once a nursing home achieves substantial compliance, it has made a sufficient demonstration to participate, and we do not require a plan of correction before the provider agreement is effective. Thus, if a nursing home is in substantial compliance on the date of the survey, its provider agreement is effective on the date of the survey. However, we still require that it submit an acceptable plan of correction at a later date for requirements that it does not fully meet. This is consistent with § 488.402(d), which provides that facility with deficiencies in program requirements must submit a plan of correction for approval except when the deficiencies are isolated and have a potential for minimal harm, but no actual harm has occurred. Therefore, we are removing the requirement in §§ 442.13(c)(3)(ii) and 489.13(b)(3)(ii) that a provider that is in substantial