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

compliance with Federal requirements submit a plan of correction before the provider agreement is effective.

In §§ 488.303(d) and 488.406(a) and (b), we are reordering the list of remedies to separate ''transfer of residents'' from ''closure of the facility in emergency situations or transfer of residents, or both.'' We are making this change to avoid any misunderstanding that might otherwise occur that would lead to a conclusion that in order for there to be a transfer of residents there must be a facility closure. A transfer of residents may occur when there is no facility closure, as would be the case when a facility's provider agreement is terminated. While we believe that the regulations provided the necessary separation of these two events, we are correcting the text to make certain that there is no chance for ambiguity.

In §§ 488.303(d) and 488.406(b), in reference to the remedies that the State must establish, we are clarifying that, ''in addition to termination of the provider agreement,'' the State must establish certain remedies or approved alternatives to these remedies. The reason for this clarification is that termination is a remedy that States must establish, but it is unlike the other remedies listed, because there are circumstances in which termination is the only option available.

In § 488.330(e)(1)(ii), we are replacing the phrase, ''the pendency of any hearing'' with ''any pending hearing'' because it is simpler, more easily understood, and consistent with paragraph (e)(2)(ii).

In § 488.335(f), regarding the report of findings that an individual has neglected or abused a resident or misappropriated resident property, we are correcting an unintentional error in the text, which resulted in the implication that it is always the State survey agency that must report the findings. In a particular State, an agency other than the State survey agency may be responsible for reporting the findings, except for reporting to the nurse aide registry. Only the State survey agency may report the findings to the nurse aide registry, and it may not delegate this responsibility, in accordance with § 483.156(b)(2). Therefore, we are revising § 488.335(f) to make this distinction clear. In §§ 488.335(c)(3)(iv) and 488.335(c)(3)(v), we are making conforming changes by removing references to the survey agency.

In § 488.401, in the definition of ''plan of correction,'' we are replacing the term, ''certifying agency'' with ''HCFA or the survey agency'' to make clearer the identity of the certifying agency.

Section 488.402(f)(1), regarding notification requirements for all facilities other than non-State operated NFs, provides that HCFA gives the provider notice of the remedy. As currently written, the regulation does not acknowledge that, while we impose all remedies on facilities other than non-State operated NFs, we permit States to send notices of adverse actions in certain cases of minimal noncompliance, but only as we direct. Leaving the regulation in its current published form would give the erroneous impression that HCFA must be the sole entity to provide such notice, which would not comport with program practice under these regulations. Therefore, we are revising § 488.402(f)(1) to specify that, except when the State is taking action against a non-State operated NF, HCFA ''or the State (as authorized by HCFA)'' gives the provider notice of the remedy.

In § 488.402(f)(7), regarding State monitoring, we are removing an incorrect reference to immediate jeopardy. We do not give a facility notice before we impose State monitoring, even when there is immediate jeopardy. We discussed this in the preamble (59 FR 56171, column two) and failed to correct this error in the text of the regulations.

Section 488.408(d)(3) concerns our option and a State's option to apply remedies in Category 2 to any deficiency. We are correcting an omission by clarifying that HCFA or the State may apply one or more of the remedies in Category 2 to any deficiency except when the facility is in substantial compliance, or when HCFA or the State imposes a civil money penalty for a deficiency that constitutes immediate jeopardy, in which case, the penalty must be in the upper range of penalty amounts, as specified in § 488.438(a).

In § 488.410(c)(2), we are correcting an inadvertent error. Paragraph (c)(2) provides that when a facility has deficiencies that pose immediate jeopardy, we will or the State must take immediate action to remove the jeopardy and correct the noncompliance through temporary management or terminate the facility's participation under the State plan (and we will terminate the facility's Medicare participation if it is a dually-participating facility).

In § 488.412(a)(2), we are changing ''State survey agency'' to ''State'' because we inadvertently failed to recognize that, in fact, the submission of plans and timetables for corrective action are as likely to be generated by agencies other than the State survey agency and it was not our intent to limit States' discretion. We are also changing ''plan of correction'' to ''plan and timetable for corrective action'' for consistency with terminology used in § 488.450.

In § 488.417(c)(1) and (c)(2), with regard to resumption of payments when a facility has repeated instances of substandard quality of care, we clarify that, when the facility is a State-operated NF participating in the Medicaid program, HCFA, rather than the State, makes the determination that the facility has achieved substantial compliance and is capable of remaining in substantial compliance. To permit a State to make this determination for a facility that the State itself operates, would be an obvious conflict of interest and inconsistent with the law's directive that the Secretary be the certifying entity for these facilities. We are also clarifying that HCFA makes the determination for all facilities except non-State operated NFs against which HCFA is imposing no remedies, and the State makes the determination for non-State operated NFs against which HCFA is imposing no remedies.

Section 488.422(c)(1) provides that State monitoring is discontinued when the facility demonstrates that it is in substantial compliance with the requirements, and it will remain in compliance for a period of time specified by HCFA or the State, or until termination procedures are complete. We are correcting an inadvertent error in the text by clarifying that the facility only has to demonstrate that it will remain in compliance, in addition to demonstrating that it has achieved substantial compliance, if the remedy was imposed for repeated instances of substandard quality of care.

In § 488.426, we are rewording the section title to remove the erroneous implication that closure of a facility can occur without transfer of residents. In paragraph (a), we are revising the heading to more accurately reflect the content of the paragraph. In paragraph (b), we are revising the heading to reflect the content, which is transfer of residents when HCFA or the State terminates the facility's provider agreement, and we are removing the reference to ''immediate jeopardy'' because we inadvertently failed to recognize in the final rule that provider agreement terminations cause residents to be transferred regardless of whether immediate jeopardy exists. We are also removing paragraph (c) because it would be redundant after the change to paragraph (b).

Section 488.432(a)(1)(i), regarding when a civil money penalty is collected after a facility requests a hearing,

provides that a facility must request a hearing within the time specified in § 498.40 for a SNF, a dually participating facility, or State-operated NF. We inadvertently omitted from the list, ''non-State operated NF against which HCFA is imposing remedies.'' Similarly, in § 488.432(a)(1)(ii), we are correcting an error by clarifying that a facility must request a hearing on the determination of noncompliance that is the basis for imposition of the civil money penalty within the time specified in § 431.153 for a non-State operated NF ''that is not subject to imposition of remedies by HCFA.''

In § 488.434, with regard to written notice of our intent to impose a civil money penalty, we are removing the phrase, ''intent to impose.'' The proposed rule provided that the effective date of a civil money penalty would be the 10th day after the last day of the survey in immediate jeopardy situations, and the 20th day after the last day of the survey in non-immediate jeopardy situations.

Consequently, the proposed rule referred to ''the intent'' to impose a civil money penalty because a provider always had a window of opportunity in which to correct the noncompliance and avoid the imposition of the civil money penalty. (If a facility corrected the deficiency before the 10th or 20th day, we would not impose a civil money penalty.) However, on page 56200 of the preamble to the final rule, we noted that a notice of imposition of the penalty is not required before a civil money penalty can begin to accrue, since the Act permits the imposition of a civil money penalty for past violations that have been corrected, and the civil money penalty may start accruing as early as the date that the facility was first out of compliance, as determined by HCFA or the State. For these reasons, we are removing the phrase, ''intent to impose,'' (the civil money penalty) in § 488.434.

In § 488.442(c)(2), we correct an inadvertent error regarding the Medicare rate of interest assessed on the unpaid balance of a civil money penalty. Paragraph (c)(2) should have specified that the Medicare rate of interest is ''the higher of'' the rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date of the notice of the penalty amount due (published quarterly in the Federal Register by HHS under 45 CFR 30.13(a)), or the current value of funds (published annually in the Federal Register by the Secretary of the Treasury, subject to quarterly revisions). Our intention to use ''the higher of'' the two amounts is indicated in the discussion of § 488.442(c) on page 56209 of the preamble.

Section 488.442 (d) and (e) concerns the disposition of civil money penalties and interest collected from long term care facilities. It was brought to our attention that the law specifically requires that, for Medicare-participating facilities, we deposit the funds as miscellaneous receipts of the U.S. Treasury (rather than ''return them to the Medicare Trust Fund''), and, for Medicaid-participating facilities, that we return the funds to the State. Section 488.442(e) concerns disposition of civil money penalties and interest collected from facilities that participate in both Medicare and Medicaid programs (dually participating facilities). Again, we believe it is more correct legally to refer not to the Medicare Trust Fund, but to ''miscellaneous receipts of the U.S. Treasury.'' Therefore, we have made these changes to § 488.442 (d) and (e). In addition, in § 488.442(f), we are making an editorial change by revising the term ''deficient'' with regard to facilities to ''noncompliant.''

In § 488.454, regarding the duration of remedies, paragraph (d) provides that, if the facility can supply documentation acceptable to us or the State that it was in substantial compliance, and was capable of remaining in substantial compliance, if necessary, on a date preceding that of the revisit, the remedies terminate on the date that we or the State can verify that the facility achieved substantial compliance. We inadvertently left off at the end of the sentence ''the facility demonstrated that it could maintain substantial compliance, if necessary.''

In § 489.3, we are correcting an error in the definition of immediate jeopardy, which is inconsistent with the definition of immediate jeopardy in § 488.301. As corrected, ''immediate jeopardy'' means a situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident. We are removing the phrase, ''immediate corrective action is necessary because''.

In § 489.53, we removed the entire paragraph (b) in error, and should have removed only paragraph (b)(2) because it is no longer applicable. Paragraph (b)(1), which concerns termination of a provider agreement for a hospital or rural primary care hospital that has an emergency department, was inadvertently removed. Consequently, we are correcting this by reinstating the content of paragraph (b)(1) as paragraph (b).

Finally, we are correcting an error, which inadvertently gave the impression (by our not changing part 498) that judicial review of a civil money penalty was available to a facility in the United States District Courts. In fact, through the incorporation of parts of section 1128A of the Social Security Act (the Act) in sections 1819(h) and 1919(h) of the Act, judicial review of such actions may occur only in the appropriate United States Court of Appeals. Therefore, we are revising § 498.90 to reflect this fact. In addition, we are revising § 498.90 to make it conform to § 498.1(h), which makes it clear that Appeals Council decisions on civil money penalty cases are final once the Appeals Council makes a decision, regardless of whether judicial review occurs.

II. Other Corrections

In this document, we are making numerous corrections resulting from typographical errors, errors in cross references, omissions and conflicts within the November 10, 1994 rule.

III. Corrections to the Regulations Text of the November 10, 1994 Final Rule (59 FR 56116)

PART 431—[CORRECTED]

1. On page 56232, column three, § 431.153(a), line two, ''Medicaid agency'' is corrected to read ''State''.

PART 440—[CORRECTED]

§ 440.40 [Corrected]

2. On page 56234, column one, § 440.40(a)(2), line one, ''includes'' is corrected to read ''include''.

PART 442—[CORRECTED]

3. We make the following corrections to § 442.13:

a. On page 56235, column three, § 442.13(b), in the sixth line, ''survey'' is corrected to read ''survey,''.

b. On page 56235, column three, § 442.13(c)(3)(ii) is corrected to read as follows:

§ 442.13 Effective date of agreement.

* * * * *

(c) * * *

(3) * * *

(ii) Submits, if applicable, an approvable waiver request.

* * * * *

§ 442.30 [Corrected]

4. On page 56235, column three, in the amendatory language to item 10, the word ''and is inserted before ''(a)(4)'' in line two, and the words ''introductory paragraph of'' are inserted before ''(a)(7)'' in line three.

PART 488—[CORRECTED]

5. On page 56239, column one, § 488.303(d) is corrected to read as follows:

§ 488.303 State plan requirement.

* * * * *

(d) Required remedies for a non-State operated NF. A State must establish, in addition to termination of the provider agreement, the following remedies or an approved alternative to the following remedies for imposition against a non-State operated NF:

(1) Temporary management.

(2) Denial of payment for new admissions.

(3) Civil money penalties.

(4) Transfer of residents.

(5) Closure of the facility and transfer of residents.

(6) State monitoring.

* * * * *

§ 488.314 [Corrected]

6. On page 56240, column one, § 488.314(a)(4)(iii), line four, ''paragraphs (a)(2)(i) or (ii)'' is corrected to read ''paragraph (a)(4)(i) or paragraph (a)(4)(ii)''.

§ 488.325 [Corrected]

7. We make the following corrections to § 488.325:

a. On page 56241, column one, § 488.325(f)(2), line two, ''§ 488.206'' is corrected to read ''§ 488.406''.

b. On page 56241, column two, § 488.325(i), line eight, ''part 1002, subpart C,'' is corrected to read ''part 1007''.

§ 488.330 [Corrected]

8. On page 56241, column three, § 488.330(e)(1)(ii), line two, ''the pendency of any hearing'' is corrected to read ''any pending hearing''.

§ 488.335 [Corrected]

9. We make the following corrections to § 488.335:

a. On page 56242, column three, § 488.335(b), line three, ''their'' is corrected to read ''the''.

b. On page 56242, column three, § 488.335(c)(3)(iv), line one, ''Survey agency's intent'' is corrected to read ''Intent''.

c. On page 56242, column three, § 488.335(c)(3)(v), line four, ''the survey agency'' is removed.

d. On page 56243, column one, § 488.335(f), beginning on line six, ''survey agency, which may not delegate this responsibility,'' is removed.

e. On page 56243, column one, § 488.335(f)(5) is corrected to read as follows:

§ 488.335 Action on complaints of resident neglect and abuse, and misappropriation of resident property.

* * * * *

(f) * * *

(5) The nurse aide registry for nurse aides. Only the State survey agency may report the findings to the nurse aide registry, and this must be done within 10 working days of the findings, in accordance with § 483.156(c) of this chapter. The State survey agency may not delegate this responsibility.

* * * * *

§ 488.401 [Corrected]

10. On page 56243, column three, § 488.401, in the definition of *Plan of correction,* line three, ''the certifying agency which'' is corrected to read ''HCFA or the survey agency that''.

§ 488.402 [Corrected]

11. We make the following corrections to § 488.402:

a. On page 56243, column three, § 488.402(f)(1), beginning on line one, the paragraph heading is removed.

b. On page 56243, column three, § 488.402(f)(1), beginning on line five, ''HCFA'' is corrected to read ''HCFA or the State (as authorized by HCFA)''.

c. On page 56243, column three, § 488.402(f)(2), line one, the paragraph heading is removed.

d. On page 56244, column one, § 488.402(f)(7), line one, the paragraph heading ''State monitoring—immediate jeopardy.'' is corrected to read ''State monitoring.''

e. On page 56244, column one, § 488.402(f)(7), beginning on line two, ''imposed when there is immediate jeopardy'' is removed.

12. On page 56244, column two, § 488.406(a) and (b) are corrected to read as follows:

§ 488.406 Available remedies.

(a) *General.* In addition to the remedy of termination of the provider agreement, the following remedies are available:

(1) Temporary management.

(2) Denial of payment including—

(i) Denial of payment for all individuals, imposed by HCFA, to a—

(A) Skilled nursing facility, for Medicare;

(B) State, for Medicaid; or

(ii) Denial of payment for all new admissions.

(3) Civil money penalties.

(4) State monitoring.

(5) Transfer of residents.

(6) Closure of the facility and transfer of residents.

(7) Directed plan of correction.

(8) Directed in-service training.

(9) Alternative or additional State remedies approved by HCFA.

(b) *Remedies that must be established.* At a minimum, and in addition to termination of the provider agreement, the State must establish the following remedies or approved alternatives to the following remedies:

(1) Temporary management.

(2) Denial of payment for new admissions.

(3) Civil money penalties.

(4) Transfer of residents.

(5) Closure of the facility and transfer of residents.

(6) State monitoring.

* * * * *

13. We make the following corrections to § 488.408:

a. On page 56244, column three, § 488.408(b), line 10, ''set forth'' is corrected to read ''set forth in''.

b. On page 56244, column three, § 488.408(c)(2), line one, ''HCFA or'' is corrected to read ''HCFA does or''.

c. On page 56244, column three, § 488.408(d)(3), is corrected to read as follows:

§ 488.408 Selection of remedies.

* * * * *

(d) * * *

(3) HCFA or the State may apply one or more of the remedies in Category 2 to any deficiency except when—

(i) The facility is in substantial compliance; or

(ii) HCFA or the State imposes a civil money penalty for a deficiency that constitutes immediate jeopardy, the penalty must be in the upper range of penalty amounts, as specified in § 488.438(a).

* * * * *

d. On page 56245, column one, § 488.408(f)(1), line two, ''paragraph (F)(2)'' is corrected to read ''paragraph (f)(2)''.

§ 488.410 [Corrected]

14. We make the following changes to § 488.410:

a. On page 56245, column two, § 488.410(c)(2), line one, ''must—'' is corrected to read ''must do one or both of the following:''.

b. On page 56245, column two, § 488.410(c)(2)(i), line four, ''management; or'' is corrected to read ''management.''.

§ 488.412 [Corrected]

15. We make the following corrections to § 488.412:

a. On page 56245, column two, § 488.412(a)(2), line one, ''The State survey agency'' is corrected to read ''The State''.

b. On page 56245, column two, § 488.412(a)(2), line two, ''a plan of

correction'' is corrected to read ''a plan and timetable for corrective action''.

§ 488.417 [Corrected]

16. We make the following corrections to § 488.417:

a. On page 56246, column three, § 488.417(c)(1), beginning on line four, ''HCFA (under Medicare) or the State (under Medicaid)'' is corrected to read ''HCFA (for all facilities except non-State operated NFs against which HCFA is imposing no remedies) or the State (for non-State operated NFs against which HCFA is imposing no remedies)''.

b. On page 56246, column three, § 488.417(c)(2), beginning on line one, ''HCFA (under Medicare) or the State (under Medicaid)'' is corrected to read ''HCFA (for all facilities except non-State operated NFs against which HCFA is imposing no remedies) or the State (for non-State operated NFs against which HCFA is imposing no remedies)''.

§ 488.422 [Corrected]

17. On page 56247, column one, § 488.422(c)(1), line three, ''and it'' is corrected to read ''and, if imposed for repeated instances of substandard quality of care,''.

§ 488.425 [Corrected]

18. On page 56247, column two, § 488.425(b), line six, ''§ 488.206'' is corrected to ''§ 488.406''.

§ 488.426 [Corrected]

19. We make the following corrections to § 488.426:

a. On page 56247, column two, § 488.426, the section heading ''Closure of a facility or transfer of residents, or both.'' is corrected to read ''Transfer of residents, or closure of the facility and transfer of residents.''

b. On page 56247, column two, § 488.426(a), the paragraph heading ''Closure of a facility or transfer of residents, or both.'' is corrected to read ''Transfer of residents, or closure of the facility and transfer of residents in an emergency.''

c. On page 56247, column two, § 488.426(b), the paragraph heading ''Required transfer in immediate jeopardy situations.'' is corrected to read ''Required transfer when a facility's provider agreement is terminated.''

d. On page 56247, column two, § 488.426(b), beginning in line four, ''agreement for a deficiency that constitutes immediate jeopardy, the'' is corrected to read ''agreement, the''.

e. On page 56247, column two, § 488.426, paragraph (c) is removed.

§ 488.432 [Corrected]

20. We make the following corrections to § 488.432:

a. On page 56247, column two, § 488.432(a)(1), line 5, ''in—'' is corrected to read ''in one of the following sections:''

b. On page 56247, column two, § 488.432(a)(1)(i)(B), ''facility; or'' is corrected to read ''facility;''.

c. On page 56247, column two, § 488.432(a)(1)(i)(C), ''State-operated NF.'' is corrected to read ''State-operated NF; or''.

d. On page 56247, column two, § 488.432(a)(1)(i), a new paragraph (D) is added to read as follows:

''(D) Non-State operated NF against which HCFA is imposing remedies.''

e. On page 56247, column two, § 488.432(a)(1)(ii), line two, ''NF.'' is corrected to read ''NF that is not subject to imposition of remedies by HCFA.''

§ 488.434 [Corrected]

21. On page 56247, column three, § 488.434(a)(1), beginning on line two, ''notice of intent to impose the penalty'' is corrected to read ''notice of the penalty''.

22. We make the following corrections to § 488.442:

a. On page 56249, column two, § 488.442(c)(2), line two, ''interest is—'' is corrected to read ''interest is the higher of—''.

b. On page 56249, column two, § 488.442(c)(2)(i), line one, ''Fixed'' is corrected to read ''The rate fixed''.

c. On page 56249, column two, § 488.442(d) is corrected to read as follows:

§ 488.442 Civil money penalties: Due date for payment of penalty.

* * * * *

(d) *Penalties collected by HCFA.* Civil money penalties and corresponding interest collected by HCFA from—

(1) Medicare-participating facilities are deposited as miscellaneous receipts of the United States Treasury; and

(2) Medicaid-participating facilities are returned to the State.

* * * * *

d. On page 56249, column two, § 488.442(e), beginning on line four, ''returned to the Medicare Trust Fund and'' is corrected to read ''deposited as miscellaneous receipts of the United States Treasury and returned to''.

e. On page 56249, column two, § 488.442(f), line six, ''deficient,'' is corrected to read ''noncompliant,''.

§ 488.450 [Corrected]

23. On page 56249, column three, § 488.450(b), line five, ''if'' is corrected to read ''of''.

§ 488.454 [Corrected]

24. On page 56250, column two, § 488.454(d), the last line, ''achieved.'' is corrected to read ''achieved and the facility demonstrated that it could maintain substantial compliance, if necessary.''

PART 489—[CORRECTED]

§ 489.3 [Corrected]

25. On page 56250, column three, § 489.3, beginning on line two, ''in which immediate corrective action is necessary because the provider's'' is corrected to read ''in which the provider's''.

26. On page 56251, column one, § 489.13(b)(3)(ii) is corrected to read as follows:

§ 489.13 Effective date of agreement.

* * * * *

(b) * * *

(3) * * *

(ii) Submits, if applicable, an approvable waiver request.

27. Section 489.53 is amended by adding a new paragraph (b) to read as follows:

§ 489.53 Termination by HCFA

(b) *Termination of provider agreement.* In the case of a hospital or rural primary care hospital that has an emergency department, as defined in § 489.24(b), HCFA may terminate the provider agreement if—

(1) The hospital fails to comply with the requirements of § 489.24 (a) through (e), which require the hospital to examine, treat, or transfer emergency medical condition cases appropriately, and require that hospitals with specialized capabilities or facilities accept an appropriate transfer; or

(2) The hospital fails to comply with § 489.20(m), (q), and (r), which require the hospital to report suspected violations of § 489.24(d), to post conspicuously in emergency departments or in a place or places likely to be noticed by all individuals entering the emergency departments, as well as those individuals waiting for examination and treatment in areas other than traditional emergency departments, (that is, entrance, admitting area, waiting room, treatment area), signs specifying rights of individuals under this subpart, to post conspicuously information indicating whether or not the hospital participates in the Medicaid program, and to maintain medical and other records related to transferred individuals for a period of 5 years, a list of on-call physicians for individuals with emergency medical conditions, and a central log on each individual who comes to the emergency department seeking assistance.

* * * * *

PART 498—[CORRECTED]

§ 498.3 [Corrected]

28. We make the following corrections to § 498.3:

a. On page 56252, column one, § 498.3(b)(12), line two, ''§ 498.3(d)(11).'' is corrected to read § 498.3(d)(11)''.

b. On page 56252, column one, § 498.3(d)(10), line seven, ''(b)(14)'' is corrected to read ''(b)(13)''.

c. On page 56252, column two, § 498.3(d)(12), line two, ''(b)(14)'' is corrected to read ''(b)(13)''.

29. Section 498.90 is amended by redesignating existing paragraph (b) as paragraph (c), and adding a new paragraph (b) to read as follows:

§ 498.90 Effect of Appeals Council decision.

* * * * *

(b)(1) When HCFA imposes a civil money penalty on a SNF or NF, the decision of the Appeals Council is final upon issuance.

(2) Judicial review of an Appeals Council decision concerning the imposition of a civil money penalty on a SNF or NF is available in the appropriate United States Court of Appeals.

Authority: Sections 1819(g), 1819(h), 1919(g), and 1919(h) of the Social Security Act (42 U.S.C. 1395i–3(g), 1395i–3(h), 1395r(g), and 1395r(h)).

Dated: September 18, 1995.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 95–23780 Filed 9–27–95; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 28, 30, 31, 35, 37, 40, 50, 54, 55, 56, 57, 61, 67, 70, 71, 72, 76, 78, 79, 90, 91, 95, 97, 99, 106, 150, 154, 171, 174, 188, and 189

[CGD 95–012]

RIN 2115-AF03

Inspected and Uninspected Commercial Vessels; Removal of Obsolete and Unnecessary Regulations; Correction to Effective Date

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction to effective date.

SUMMARY: The Coast Guard is changing the effective date of the final rule, ''Inspected and Uninspected Commercial Vessels; Removal of Obsolete and Unnecessary Regulations'' published September 18, 1995 in the Federal Register (60 FR 48044) to October 1, 1995 to conform the effective date with the recodification of Title 46 of the Code of Federal Regulations. This final rule imposes no substantive requirements on the public.

EFFECTIVE DATE: September 28, 1995. The effective date of the final rule, ''Inspected and Uninspected Commercial Vessels; Removal of Obsolete and Unnecessary Regulations'' published September 18, 1995 in the Federal Register (60 FR 48044) is corrected to October 1, 1995.

FOR FURTHER INFORMATION CONTACT: LCDR R. K. Butturini, Design and Engineering Standards Division, Office of Marine Safety, Security and Environmental Protection, (202) 267–2206.

SUPPLEMENTARY INFORMATION:

Regulatory Information

This rulemaking merely removes and revises obsolete and unnecessary provisions of Title 46 of the Code of Federal Regulations and does not impose any substantive requirements on the public. Therefore, the Coast Guard, for good cause finds, under 5 U.S.C. 553(d), that a delayed effective date is not necessary. This action is being taken to conform the effective date of this rule with the recodification of Title 46 of the Code of Federal Regulations.

Dated: September 22, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–24106 Filed 9–27–95; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 91–213; FCC 95–404]

Transport Rate Structure and Pricing

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Fourth Memorandum Opinion and Order on Reconsideration,* we address two issues raised by MCI on reconsideration of the *Third Reconsideration Order (Transport Rate Structure and Pricing,* Third Memorandum Opinion and Order and Supplemental Notice of Proposed Rulemaking)—the mid-course adjustment (or ''true up'') of the interconnection charge and the rules regarding discounted transport offerings and pricing flexibility. In addition, we address, on our own initiative, the expiration of the interim transport rate structure, which was initially set to expire on October 31, 1995. We dismiss in part MCI's Petition for Clarification or, in the Alternative, Reconsideration as moot, and grant in part that petition. We also reconsider the expiration date of the interim transport rate structure rules and extend the effectiveness of those rules pending further Commission action. The intended effect of this action is to maintain the interim transport rate structure.

EFFECTIVE DATE: October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew J. Harthun, (202) 418–1590 or David L. Sieradzki, (202) 418–1576, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Fourth Memorandum Opinion and Order on Reconsideration* in CC Docket No. 91–213, adopted and released on September 22, 1995. The complete text of this *Fourth Memorandum Opinion and Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

Synopsis of Memorandum Opinion and Order

A. MCI's Petition for Clarification or, in the Alternative, Reconsideration

1. On February 21, 1995, MCI filed a Petition for Clarification or, in the Alternative, Reconsideration of the *Third Reconsideration Order, 60 FR 4107 (January 20, 1995).* MCI asks the Commission to clarify or reconsider the procedure for LECs to implement a mid-course adjustment (or ''true up'') of the interconnection charge. In addition, MCI asks the Commission to clarify that LECs are not precluded from offering their access customers percentage and growth discounts, so long as they can demonstrate that such discounts are cost-based.

1. Interconnection Charge ''True Up''

2. In the *Third Reconsideration Order,* we required the LECs to file any requests for mid-course adjustment to the interconnection charge no later than March 31, 1995. No requests for mid-course adjustment were submitted by that date. Accordingly, MCI's request for clarification or reconsideration regarding the inclusion of non-recurring