

with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final action includes environmental monitoring and measurement as described in EPA's final SMMP. EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated Sites. The Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the final SMMP.

(10) Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. EPA has assessed the overall protectiveness of designating the disposal Sites against the criteria established pursuant to the MPRSA to ensure that any adverse impact to the environment will be mitigated to the greatest extent practicable.

(11) Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective thirty days from the date of publication in the **Federal Register**.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: April 9, 2009.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

■ For the reasons set out in the preamble, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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 (n)(7) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(n) * * *

(7) Umpqua River, OR—North and South Dredged Material Disposal Sites.

(i) North Umpqua River Site.

(A) *Location:* 43°41'23.09" N, 124°14'20.28" W; 43°41'25.86" N, 124°12'54.61" W; 43°40'43.62" N, 124°14'17.85" W; 43°40'46.37" N, 124°12'52.74" W.

(B) *Size:* Approximately 1.92 kilometers long and 1.22 kilometers wide, with a drop zone which is defined as a 500-foot setback inscribed within all sides of the site boundary, reducing the permissible disposal area to a zone 5,300 feet long by 3,000 feet wide.

(C) *Depth:* Ranges from approximately 9 to 37 meters.

(D) *Primary Use:* Dredged material.

(E) *Period of Use:* Continuing Use.

(F) *Restrictions:* (1) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13, from the Umpqua River navigation channel and adjacent areas;

(2) Disposal shall be managed by the restrictions and requirements contained

in the currently-approved Site Management and Monitoring Plan (SMMP);

(3) Monitoring, as specified in the SMMP, is required.

(ii) South Umpqua River Site.

(A) *Location:* 43°39'32.31" N, 124°14'35.60" W; 43°39'35.23" N, 124°13'11.01" W; 43°38'53.08" N, 124°14'32.94" W; 43°38'55.82" N, 124°13'08.36" W.

(B) *Size:* Approximately 1.92 kilometers long and 1.22 kilometers wide, with a drop zone which is defined as a 500-foot setback inscribed within all sides of the site boundary, reducing the permissible disposal area to a zone 5,300 feet long by 3,000 feet wide.

(C) *Depth:* Ranges from approximately 9 to 37 meters.

(D) *Primary Use:* Dredged material.

(E) *Period of Use:* Continuing Use.

(F) *Restrictions:* (1) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13, from the Umpqua River navigation channel and adjacent areas;

(2) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(3) Monitoring, as specified in the SMMP, is required.

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[FR Doc. E9-9434 Filed 4-23-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 447 and 455

[CMS-2198-F2]

RIN-0938-AN09

Medicaid Program; Disproportionate Share Hospital Payments; Correcting Amendment

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

ACTION: Final rule; correcting amendment.

SUMMARY: This correcting amendment corrects a technical error in the regulations text in the final rule published in the **Federal Register** on December 19, 2008 (73 FR 77904) entitled, "Disproportionate Share Hospital Payments." In that final rule, we set forth data elements necessary to

comply with the requirements of section 1923(j) of the Social Security Act (the Act) related to auditing and reporting of disproportionate share hospital payments under State Medicaid programs. The effective date was January 19, 2009.

DATES: *Effective Date:* This correcting amendment is effective April 24, 2009.

FOR FURTHER INFORMATION CONTACT:

Venesa Day, (410) 786-8281.
Rory Howe, (410) 786-4878.
Rob Weaver, (410) 786-5914.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. E8-30000 issued on December 19, 2008 (73 FR 77904), there was a technical error that is identified and corrected in this correcting amendment. The correction in this document is effective April 24, 2009.

II. Summary of Error in the Regulations Text

On page 77950 of the final rule, we made a technical error in the regulation text of § 447.299(c)(16). In this paragraph, the text provides a narrative description of how “total annual uncompensated care costs” are to be calculated from component data elements. The first sentence accurately names the component data elements and correctly describes the calculation. The last sentence attempts to condense the previous sentence by substituting references for component data elements as identified in previous paragraphs of § 447.299(c). However, the references are unintentionally incorrect.

The last sentence of the original final text indicates that the sum of paragraphs (c)(11) and (c)(15) should be subtracted from (c)(9), (c)(12), and (c)(13). This calculation would sum Medicaid uncompensated care costs and total uninsured inpatient and outpatient uncompensated care costs, then subtract this total from the sum of total Medicaid inpatient and outpatient payments, uninsured inpatient and outpatient revenue, and total applicable Section 1011 payments. This calculation is incorrect and could not be interpreted reasonably to result in “total annual uncompensated care costs”. Additionally, it erroneously contradicts section 1923(g) of the Social Security Act (the Act), § 447.299 and § 455 subpart D, and longstanding CMS policy.

The corrected text of the last sentence should read as follows: “This should equal the sum of paragraphs (c)(9), (c)(12), and (c)(13) subtracted from the sum of paragraphs (c)(10) and (c)(14) of this section.” This correction includes

the correct references necessary to calculate accurately “total uncompensated care costs” consistent with section 1923(g) of the Act, § 447.299 and § 455 Subpart D, and longstanding CMS policy.

IV. Waiver of Proposed Rulemaking and Delay in Effective Date

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 action merely corrects a technical error in the December 19, 2008 final rule. We are not changing the policy contained in that rule, and further public comment is unnecessary. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this action.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, and Rural areas.

■ Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendment to part 447:

PART 447—PAYMENTS FOR SERVICES

■ 1. The authority citation for part 447 continues to read as follows:

Authority: Secs. 1102 of the Social Security Act (42 U.S.C. 1302).

■ 2. Section 447.299 is amended by revising paragraph (c)(16) to read as follows:

§ 447.299 Reporting Requirements
(c) * * *

(16) *Total annual uncompensated care costs.* The total annual uncompensated care cost equals the total cost of care for furnishing inpatient hospital and outpatient hospital services to Medicaid eligible individuals and to individuals with no source of third party coverage for the hospital services they receive less the sum of regular Medicaid FFS rate payments, Medicaid managed care organization payments, supplemental/enhanced Medicaid payments, uninsured revenues, and Section 1011 payments for inpatient and outpatient hospital services. This should equal the sum of paragraphs (c)(9), (c)(12), and (c)(13) subtracted from the sum of paragraphs (c)(10) and (c)(14) of this section.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: April 13, 2009.

Ashley Files Flory,

Acting Executive Secretary to the Department.

[FR Doc. E9-9232 Filed 4-23-09; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 0812311655-9645-03]

RIN 0648-AX44

Pacific Halibut Fisheries; Catch Sharing Plan; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This action corrects the text of a final rule published on March 19, 2009, that implemented annual management measures governing the Pacific halibut fishery. This final rule established season dates off of Alaska, Washington, Oregon and California. This action is necessary to correct errors in dates listed in the areas from Leadbetter Point, WA to Cape Falcon, OR and from Cape Falcon to Humbug Mountain, OR.

DATES: Effective April 24, 2009.

FOR FURTHER INFORMATION CONTACT: Sarah Williams, 206-526-4646.

SUPPLEMENTARY INFORMATION: A final rule published March 19, 2009 (74 FR 11681), included annual management measures for managing the harvest of Pacific halibut (*Hippoglossus*