

Indiana, with a request that the Indiana State Implementation Plan be revised to include these amended carbon monoxide and particulate matter rules.

(i) Incorporation by reference.

(A) *Indiana rule*: 326 IAC 4-2-1 and 326 IAC 4-2-2 (particulate matter), published at *Indiana Register*, January 1, 2003, 26 IR 1070, with an effective date of December 15, 2002.

(B) *Indiana rule*: 326 IAC 9-1-1 and 326 IAC 9-1-2 (carbon monoxide), published at *Indiana Register*, January 1, 2003, 26 IR 1072, with an effective date of December 15, 2002.

[FR Doc. 04-26401 Filed 11-29-04; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

42 CFR Parts 403, 412, 413, 418, 460, 480, 482, 483, 485, and 489

[CMS-1428-N]

RIN 0938-AM80

### Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2005 Rates; Extension for the Hospital Applications To Receive Increases in Full Time Equivalent Resident Caps for Graduate Medical Education Payment

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

ACTION: Extension of application deadline.

**SUMMARY:** This document extends the deadline for hospitals to submit applications to CMS in order to receive increases in full-time equivalent (FTE) resident caps for graduate medical education (GME) payment purposes under section 1886(h)(7)(B) of the Social Security Act, added by section 422 of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003.

**DATES:** The deadline for receipt of applications to receive increases in FTE resident caps for GME payments is extended to December 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Heath Westcott, (410) 786-4515.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

We published a final rule in the *Federal Register* (69 FR 48916) that revised the Medicare hospital inpatient prospective payments systems for

operating and capital related costs to implement a number of changes made by the MMA.

Section 422 of the MMA (Pub. L. 108-173) provides for a reduction in the statutory resident caps under Medicare for certain hospitals and authorizes a "redistribution" of those FTE resident slots to other hospitals. Qualifying hospitals that submit a timely application may receive up to 25 additional FTE resident cap slots for direct GME and indirect medical education purposes.

#### II. Provisions of the Notice

In the Fiscal Year (FY) 2005 final rule (69 FR 49141 and 69 FR 49169), we stated that any hospital that wishes to receive an increase in its FTE resident cap(s) under section 1886(h)(7)(B) of the Social Security Act (the Act) must submit an application to the CMS Central Office and to the CMS Regional Office for the region in which the applicant hospital is located, and that the application must be received on or before December 1, 2004. In order to give hospitals more time to complete these applications, we are extending this deadline to December 15, 2004.

Additional information regarding reductions and increases in hospitals' FTE resident caps for purposes of direct and indirect GME payments under section 1886(h)(7) of the Act can be found in the August 11, 2004 *Federal Register* (69 FR 49112).

#### III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

**Authority:** Section 1886(h)(7)(B) of the Social Security Act (42 U.S.C. 1395ww(h)(7)(B)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program)

Dated: November 18, 2004.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: November 23, 2004.

**Tommy G. Thompson,**

*Secretary.*

[FR Doc. 04-26356 Filed 11-24-04; 9:24 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 224

[Docket No. 041102303-4303-01; I.D. 101804A]

RIN 0648-AS76

### Regulations Governing the Approach to North Atlantic Right Whales

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

ACTION: Final rule; technical amendment.

**SUMMARY:** NMFS issues a correcting amendment to clarify the regulations that prohibit approaches within 500 yards (460 m) of North Atlantic right whales (right whales). The purpose of this action is to correct errors contained in the text of the regulation that inadvertently refers to regulations contained in the previous paragraph within 50 CFR part 224. These technical amendments will not change the regulations for approaching right whales found in § 224.103.

**DATES:** Effective November 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Brian D. Hopper, NMFS, Northeast Region, 978-281-9328; Barb Zoodsma, NMFS, Southeast Region, 904-321-2806; or Kristy Long, NMFS, Office of Protected Resources, 301-713-2322.

**SUPPLEMENTARY INFORMATION:**

#### Background

The interim final rule implementing approach limits for right whales was published on February 13, 1997 (62 FR 6729), and codified at 50 CFR 222.32, subpart D of part 222. As part of an action taken to consolidate and reorganize existing NMFS regulations implementing the Endangered Species Act (ESA) pursuant to the President's Regulatory Reinvention Initiative (RRI), subpart D was removed from part 222 and relocated to part 224 (64 FR 14066, March 23, 1999). As a result of this reorganization, a new section was created in 50 CFR part 224 for the special prohibitions for endangered marine mammals, which included the regulations for approaching right and humpback whales.

Subsequent to the 1999 reorganization initiative, NMFS published a final rule to establish approach regulations for humpback whales within Alaskan waters (66 FR 29502, May 31, 2001). The final rule redesignated paragraphs

(b) and (c) under § 224.103, as paragraphs (c) and (d), respectively, and a new paragraph (b) was added for the Alaska humpback whale approach regulations. However, the final rule did not make the changes to the right whale approach regulations, which were previously codified as paragraph (b), necessary to reflect the redesignation as paragraph (c). In other words, the subparagraphs under the right whale approach regulations still referred to its previous location in paragraph (b).

This rule does not substantively impact the public's current expectations, increase the scope of the regulated community, or add any new requirements to these regulations. This rule makes a minor change to the regulations for approaching right whales, which corrects an unintended error caused by a previous final rule that reordered the paragraphs in § 224.103.

#### Need for Correction

As published, the regulations governing approaches to right whales contain errors that may be misleading and need to be corrected.

#### Classification

The Assistant Administrator for Fisheries, NMFS (AA) finds that good cause exists to waive the requirement for prior notice and the opportunity for comment, pursuant to 5 U.S.C. 553(b)(B). Such procedures would be unnecessary because the changes made in this rule do not substantively change the regulations for approaching right whales. Therefore, it does not alter the scope of the regulated community nor add any new requirements. For the same reasons, the AA finds that good cause exists to waive the 30-day delay in effective date. Any delay in implementing this technical change would be impracticable, unnecessary, and contrary to the public interest. A delay in implementing these changes would be unnecessary because they do not substantively alter the regulations for approaching right whales by increasing the scope of the regulated community or adding any new requirements. Accordingly, pursuant to 5 U.S.C. 553(d)(3), a delay in the effective date is waived.

In addition, because general notice of proposed rulemaking is not required under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This action is not subject to review under Executive Order 12866 because the changes made are non-substantive.

This final rule does not impact the human environment, therefore, NMFS

has determined that this action is not subject to the analytical requirements of the National Environmental Policy Act.

This final rule does not contain policies with federalism implications under Executive Order 13132.

#### List of Subjects in 50 CFR part 224

Endangered and threatened species, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, 50 CFR part 224 is corrected by making the following correcting amendments:

#### PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

#### § 224.103 [Amended]

2. In the table below, in § 224.103, for each paragraph indicated in the left column, remove text from the middle column from wherever it appears in the paragraph, and add the text indicated in the right column:

Paragraph	Remove	Add
(c)(1) .....	(b)(3)	(c)(3)
(c)(1)(ii) .....	(b)(2)	(c)(2)
(c)(2) .....	(b)(3)	(c)(3)
(c)(3)(i) .....	(b)(1) and (b)(2)	(c)(1) and (c)(2)
(c)(3)(ii) .....	(b)(1) and (b)(2)	(c)(1) and (c)(2)
(c)(3)(iii) .....	(b)(1) and (b)(2)	(c)(1) and (c)(2)
(c)(3)(iv) .....	(b)(1) and (b)(2)	(c)(1) and (c)(2)
(c)(3)(v) .....	(b)(2)	(c)(2)

Dated: November 23, 2004.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 040910261-4325-02; I.D. 072704A]

RIN 0648-AS08

#### Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; fishing season notification.

**SUMMARY:** This final rule adjusts the regional quotas and establishes new trimester season quotas for large coastal sharks (LCS) and small coastal sharks (SCS) based on updated landings information. This final rule includes a framework mechanism for the annual adjustment of quotas, a method of accounting for over- or underharvests in the transition from semi-annual to trimester seasons, and a new process for notifying participants of season opening and closing dates and quotas. This final rule also announces the opening and closing dates for the LCS fishery based on adjustments to the regional and trimester quotas. This action is necessary to ensure that the landings quotas in the Atlantic commercial shark fishery represent the latest landings data and accurately reflect historic and current fishing effort.

**DATES:** This final rule is effective on January 1, 2005. The Atlantic commercial shark fishing season opening and closure dates are provided in Table 1 under **SUPPLEMENTARY INFORMATION**. The 2005 second and third trimester season dates will be published at a later date in the **Federal Register**.

**ADDRESSES:** For copies of the Final Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) contact Chris Rilling, Highly Migratory Species Management Division at 1315 East-West Highway, Silver Spring, MD 20910 or at (301) 713-1917 (fax). Copies are also available on the internet at <http://www.nmfs.noaa.gov/sfa/hms>.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, Chris Rilling, or Mike Clark by phone: 301-713-2347 or by fax: 301-713-1917.

#### SUPPLEMENTARY INFORMATION:

#### Opening and Closure Dates

The Atlantic commercial shark fishing season opening and closure dates are provided in the following table: