

revenues of \$5 million to \$25 million (see 65 FR 69432) or less annually. For purposes of the RFA, all hospitals, nursing facilities, intermediate care facilities for the mentally retarded, and clinics are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

We do not believe the shorter transition periods adopted in this final rule will have a significant impact on small entities, including small rural hospitals. Although the transition policy allows States to make higher payments to government providers than what otherwise would have been allowable under the rules that were effective on March 13, 2001, this flexibility is only available for one year. Therefore, we do not expect small entities to develop any reliance on these payments.

D. The Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in a mandated expenditure in any one year by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$110 million. Because this final rule does not mandate any new spending requirements or costs, but rather provides for new transition periods, we do not believe it has any unfunded mandate implications.

E. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We do not believe this final rule in any way imposes substantial direct compliance costs on State and local governments, or preempts or supersedes State or local law. However, we realize the reform of upper payment limits is an issue some States are very interested in. Therefore, in addition to providing States with an opportunity to comment

on the proposed rule, we have tried to afford States ample opportunities to express their interest and concerns as we have moved forward in developing reforms.

F. Executive Order 12866

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

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, Rural areas.

For the reasons set forth in the preamble, 42 CFR part 447 is amended as follows:

PART 447—PAYMENTS FOR SERVICES

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

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

2. In § 447.272, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.272 Inpatient services: Application of upper payment limits.

* * * * *

- (e) * * *
- (2) * * *
- (ii) * * *

(A) For State plan provisions that are effective after September 30, 1999 and were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective after September 30, 1999, submitted to CMS before March 13, 2001, and approved by CMS after January 21, 2001, payments may exceed the limit in paragraph (b) of this section until the later of November 5, 2001, or 1 year from the approved effective date of the State plan provision.

* * * * *

3. In § 447.321, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.321 Outpatient hospital and clinic services: Application of upper payment limits.

* * * * *

- (e) * * *
- (2) * * *
- (ii) * * *

(A) For State plan provisions that are effective after September 30, 1999 and were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective after September 30, 1999, submitted to CMS before March 13, 2001, and approved by CMS after January 21, 2001, payments may exceed the limit in paragraph (b) of this section until the later of November 5, 2001, or 1 year from the approved effective date of the State plan provision.

* * * * *

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

Dated: August 9, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–22269 Filed 9–4–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2000; MM Docket No. 00–166; RM–9951; RM–10015; RM–10016]

Radio Broadcasting Services; Wickenburg, Bagdad and Aguila, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Petition for Reconsideration of the *Report and Order* in this proceeding, 66 FR 21680, May 1, 2001, as requested by Circle S Broadcasting Co., Inc., licensee of Station KSWG (FM), Channel 231C3, Wickenburg, Arizona, to the extent it substitutes Channel 242C3 for Channel 231C3 and modifies its license accordingly, rather than the allotment of Channel 242C3 at Wickenburg as that community's third local FM transmission service. The substitution and modification at Wickenburg is preferred over the allotment of Channel 242C3 for general application based upon the original proponent's withdrawal of interest, and the failure of any other party to express an interest therein. Coordinates used for Channel 242C3 at Wickenburg remain as specified in the *Report and Order*. Allotments made in the context of this proceeding at Bagdad and Aguila, Arizona, remain unchanged. Additionally, as Wickenburg is located

within 320 kilometers (199 miles) of the US-Mexico border, concurrence of the Mexican government to this allotment was requested, but has not been received. Therefore, the allotment of Channel 242C3 at Wickenburg is conditioned on concurrence of the Mexican government in accordance with the 1992 USA-Mexico M Broadcast Agreement.

DATES: Effective October 9, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 00-166, adopted August 15, 2001, and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 231C3 at Wickenburg.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-22203 Filed 9-4-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 082701D]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Adjustment of daily retention limit; inseason quota transfer.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily retention limit should be adjusted to two large medium or giant BFT per vessel. NMFS has also determined that the BFT General category restricted fishing day (RFD) schedule should be adjusted; i.e., certain RFDs should be waived to allow for maximum utilization of the General category subquota for the September fishing period. Therefore, NMFS increases the daily retention limit from zero to two large medium or giant BFT on the following previously designated RFDs for 2001: September 2, 3, 5, 9, 10, and 12. NMFS has also determined that a quota transfer to allow continued fishing in the Harpoon category is appropriate, and therefore transfers 15 metric tons (mt) from the Reserve to the Harpoon category for the remainder of the 2001 fishing year.

DATES: The retention limit adjustment for General category vessels is effective September 1, 2001 through September 15, 2001. The quota transfer to the Harpoon category is effective August 29, 2001 through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Pat Scida or Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories, and General category effort controls (including time-period subquotas and RFDs) are specified annually as required under 50 CFR 635.23 (a) and 635.27 (a).

The initial 2001 BFT fishing category quotas and General category effort controls were specified on July 13, 2000 (66 FR 37421, July 18, 2001).

Adjustment of Daily Retention Limits

Under § 635.23 (a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds, NMFS has determined that an increase of the daily retention limit for the first half of September is appropriate and necessary to allow full use of the September subquota. Therefore, NMFS adjusts the daily retention limit for September 1 through September 15 to two large medium or giant BFT per vessel. Additionally, under 50 CFR 635.23 (a)(4), NMFS has determined that adjustment of the RFD schedule is also necessary to allow full use of the September subquota. Consequently, NMFS must increase the daily BFT retention limit for certain previously designated RFDs. Therefore, NMFS adjusts the daily retention limit for September 2, 3, 5, 9, 10, and 12, 2001, to two large medium or giant BFT per vessel. NMFS has selected these days in order to give adequate advance notice to fishery participants and NMFS enforcement.

The intent of these adjustments is to allow for maximum utilization of the General category subquotas for the September fishing period specified under 50 CFR 635.27 (a) to achieve optimum yield in the General category fishery, to collect a broad range of catch-effort data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP. For these same reasons, NMFS adjusted the General category daily retention limit on several occasions for previously scheduled RFDs over the last two years (64 FR 42855, August 6, 1999; 64 FR 51079, September 21, 1999; 65 FR 46654, July 31, 2000; and 65 FR 54970, September 12, 2000).

While BFT catch rates have been slow so far this season, NMFS recognizes that catch rates tend to increase in the fall fisheries. In order to ensure that the September subquota is not filled prematurely and to ensure equitable fishing opportunities in all areas and for all gear types, NMFS is adjusting the General category daily retention limit only through September 15 and NMFS is not waiving all the RFDs previously scheduled for September. After September 15, the daily BFT retention