

Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2522.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on December 28, 2006 (71 FR 78054). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 15, 2007. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Fort Worth, Texas, on February 6, 2007.

**Ronnie Uhlenhaker,**

*Manager, System Support Group, ATO Central Service Area.*

[FR Doc. 07-777 Filed 2-21-07; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 54

[TD 9298]

RIN 1545-AY32

#### **Nondiscrimination and Wellness Programs in Health Coverage in the Group Market; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains correction to final regulations (TD 9298) that were published in the **Federal Register** on Wednesday, December 13, 2006 (71 FR 75014) governing the provisions prohibiting discrimination based on a health factor for group health plans and issuers of health insurance coverage offered in connection with a group health plan.

**DATES:** The correction is effective February 12, 2007.

**FOR FURTHER INFORMATION CONTACT:** Russ Weinheimer, (202) 622-6080 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### **Background**

The correction notice that is the subject of this document is under section 9802 of the Internal Revenue Code.

### **Need for Correction**

As published, final regulations (TD 9298) contain errors that may prove to be misleading and are in need of clarification.

### **List of Subjects in 26 CFR Part 54**

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

### **Correction of Publication**

■ Accordingly, 26 CFR part 54 is corrected by making the following correcting amendments:

### **PART 54—PENSION EXCISE TAXES**

■ **Paragraph 1.** The authority citation for part 54 continues to read, in part, as follows:

*Authority:* 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 54.9802-1(b)(2)(i)(D) is amended by revising paragraph (ii) of *Example 4*.

■ **Par. 3.** Section 54.9802-1(f)(1) is amended by revising the first sentence of the paragraph.

The revisions read as follows:

#### **§ 54.9802-1 Prohibiting discrimination against participants and beneficiaries based on a health factor.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \*

(D) \* \* \*

*Example 4.* \* \* \*

(i) \* \* \*

(ii) *Conclusion.* In this *Example 4*, the limit does not violate this paragraph (b)(2)(i) because \$2,000 of benefits for the treatment of TMJ are available uniformly to all similarly situated individuals and a plan may limit benefits covered in relation to a specific disease or condition if the limit applies uniformly to all similarly situated individuals and is not directed at individual participants or beneficiaries. (This example does not address whether the plan provision is permissible under the Americans with Disabilities Act or any other applicable law.)

\* \* \* \* \*

(f) \* \* \*

(1) If none of the conditions for obtaining a reward under a wellness program are based on an individual satisfying a standard that is related to a health factor (or if a wellness program

does not provide a reward), the wellness program does not violate this section, if participation in the program is made available to all similarly situated individuals. \* \* \*

\* \* \* \* \*

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E7-2958 Filed 2-21-07; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### **33 CFR Part 1; 46 CFR Parts 1 and 10**

[USCG-2006-25535]

RIN 1625-ZA09

#### **Mariner Licensing and Documentation Program Restructuring and Centralization; Correction**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Correcting Amendment.

**SUMMARY:** The Coast Guard is correcting a technical amendment that appeared in the **Federal Register** on August 21, 2006. That technical amendment authorized the Commanding Officer of the National Maritime Center (NMC) to perform certain mariner credentialing functions in addition to Officers in Charge, Marine Inspection, who currently perform those functions. At the end of a transitional period, most credentialing functions will be consolidated at a centralized location. The technical amendment also made technical changes to the mariner credentialing appellate process.

**DATES:** These changes are effective March 26, 2007.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this amendment, call Mr. Gerald Miente, Project Manager, Maritime Personnel Qualifications Division (CG-3PSO-1), U.S. Coast Guard, telephone 202-372-1407. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

**SUPPLEMENTARY INFORMATION:**

#### **Background and Purpose**

The Coast Guard is correcting a technical amendment that appeared in the **Federal Register** on August 21, 2006 (71 FR 48480). That technical amendment authorized the Commanding Officer of the NMC to

perform certain mariner credentialing functions in addition to Officers in Charge, Marine Inspection, who currently perform those functions. At the end of a transitional period, most credentialing functions will be consolidated at a centralized location. The technical amendment also made technical changes to the mariner credentialing appellate process. The technical amendment, and this correcting amendment, are organizational in nature and will have no substantive effect on the regulated public.

This correction clarifies the authority of the Commanding Officer of the NMC to carry out certain maritime safety functions; and reestablishes procedures for appeal of decisions of the National Vessel Documentation Center with a revised appellate authority.

### List of Subjects

#### 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

#### 46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

#### 46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

■ Accordingly, 33 CFR part 1, and 46 CFR parts 1 and 10 are corrected by making the following correcting amendments:

### 33 CFR PART 1—GENERAL PROVISIONS

■ 1. Revise the authority citation for subpart 1.01 to read as follows:

**Authority:** 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; Department of Homeland Security Delegation No. 0170.1; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

■ 2. In § 1.01–20, designate the existing paragraph as paragraph (a); revise the first sentence of newly designated paragraph (a); and add paragraph (b) to read as follows:

#### § 1.01–20 Officer in Charge, Marine Inspection.

(a) Officers in Charge, Marine Inspection (OCMI), have been

designated and delegated to perform, within each OCMI's jurisdiction, the following functions: \* \* \*

(b) The Commanding Officer of the National Maritime Center has been designated and delegated the same authority as an OCMI for the purpose of carrying out the following marine safety functions pursuant to the provisions of 46 CFR Subchapter B:

(1) Licensing, credentialing, certificating, shipment and discharge of seamen;

(2) Referring to the processing Regional Examination Center (REC) or cognizant OCMI potential violations of law, negligence, misconduct, unskillfulness, incompetence or misbehavior of persons holding merchant mariner's documents, licenses, certificates or credentials issued by the Coast Guard, and recommending suspension or revocation under 46 U.S.C. Chapter 77 when deemed appropriate; and

(3) Granting, withholding, suspending, or withdrawing course approvals.

### 46 CFR PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

■ 3. The authority citation for 46 CFR part 1 continues to read as follows:

**Authority:** 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub.L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

■ 4. In § 1.01–15, revise paragraphs (c) and (d) and add paragraphs (e) and (f) to read as follows:

#### § 1.01–15 Organization; Districts; National Maritime Center.

\* \* \* \* \*

(c) The Commanding Officer of the National Maritime Center has been designated and delegated to:

(1) Give direction to Coast Guard activities relating to marine safety functions consisting of the licensing, credentialing, certificating, shipment and discharge of seamen;

(2) Refer to the processing Regional Examination Center (REC) or cognizant OCMI potential violations of law, negligence, misconduct, unskillfulness, incompetence or misbehavior of persons holding merchant mariner's documents, licenses, certificates or credentials issued by the Coast Guard, and recommend suspension or revocation under 46 U.S.C. Chapter 77 when deemed appropriate; and

(3) Grant, withhold, suspend, or withdraw course approvals.

(d) The Commanding Officer of the National Maritime Center has the same authority as an OCMI for the purpose of carrying out the marine safety functions listed in paragraph (c) of this section pursuant to the provisions of Subchapter B of this chapter.

(e) Applicants for merchant mariner's documents, licenses, certificates or credentials may apply to the Coast Guard National Maritime Center or any of the Regional Examination Centers. Applicants may contact the National Maritime Center at 4200 Wilson Boulevard, Suite 630, Arlington, Virginia 22203–1804, or by telephone at 202–493–1002. A list of Regional Examination Locations is available through the Coast Guard Web site at <http://www.uscg.mil>.

(f) For descriptions of Coast Guard districts and marine inspection zones, see 33 CFR part 3.

■ 5. In § 1.03–15, revise paragraph (h)(3) to read as follows:

#### § 1.03–15 General.

\* \* \* \* \*

(h) \* \* \*

(3) Commandant (CG–3PC) for all appeals involving suspension or withdrawal of course approvals, all marine personnel issues appealed from the National Maritime Center or from an OCMI through a District Commander, and all appeals regarding the documentation of a vessel under part 67 or part 68 of this title. All appeals regarding the documentation of a vessel under part 67 or part 68 of this title must be addressed to Commandant CG–3PC(d), Coast Guard Headquarters, 2100 Second St., SW, Washington, DC 20593, and a copy of each such appeal must be sent to the National Vessel Documentation Center, 792 T J Jackson Drive; Falling Waters, WV 25419;

\* \* \* \* \*

■ 6. Redesignate § 1.03–45 as § 1.03–40, and add new § 1.03–45 to read as follows:

#### § 1.03–45 Appeals from decisions or actions involving documentation of vessels.

Any person directly affected by a decision or action of an officer or employee of the Coast Guard acting on or in regard to the documentation of a vessel under part 67 or part 68 of this title, may make a formal appeal of that decision or action to the Director of Inspection and Compliance, Commandant (CG–3PC), in accordance with the procedures contained in § 1.03–15 of this subpart. The decision of the Director of Inspection and

Compliance, Commandant (CG-3PC), on such an appeal will constitute final agency action.

#### 46 CFR PART 10—LICENSING OF MARITIME PERSONNEL

■ 7. The authority citation for 46 CFR part 10 continues to read as follows:

**Authority:** 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, and 8906; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

■ 8. In Part 10, redesignate §§ 10.102 and 10.103 as §§ 10.103 and 10.104, respectively, and add new § 10.102 to read as follows:

##### § 10.102 National Maritime Center

The Commanding Officer of the National Maritime Center has the same authority as an OCMI for the purpose of carrying out the marine safety functions listed in § 1.01–15(c) of this title pursuant to the provisions of this subchapter.

Dated: February 14, 2007.

**Stefan G. Vencus,**

*Chief, Office of Regulations, and Administrative Law, United States Coast Guard.*

[FR Doc. E7–2899 Filed 2–21–07; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 229

[Docket No. 030221039–7038–41; I.D. 021407E]

#### Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

**ACTION:** Temporary rule.

**SUMMARY:** The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,245 nm<sup>2</sup> (4,270 km<sup>2</sup>) in February and approximately 387 nm<sup>2</sup> (1,327 km<sup>2</sup>) in

March, southeast of Boston, MA, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

**DATES:** Effective beginning at 0001 hours February 26, 2007, through 2400 hours March 12, 2007.

**ADDRESSES:** Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

#### FOR FURTHER INFORMATION CONTACT:

Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at <http://www.nero.noaa.gov/whaletrp/>.

##### Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right

whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15-day period and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm<sup>2</sup> (139 km<sup>2</sup>)) such that right whale density is equal to or greater than 0.04 right whales per nm<sup>2</sup> (1.85 km<sup>2</sup>). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On February 11, 2007, an aerial survey reported a sighting of three right whales in the proximity 41°54' N. lat. and 69°46' W. long. This position lies southeast of Boston, MA. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during