

### *Determination That the Criteria for Deletion Have Been Met*

No further response action under CERCLA is appropriate. EPA has determined based on the investigations conducted that all appropriate response actions required have been implemented at the Site. Through the third Five-Year Review, EPA has also determined that the remedy is considered protective of human health and the environment and, therefore, additional remedial measures are not necessary. Other procedures required by 40 CFR 300.425(e) are detailed in Section III of this direct Final Notice of Deletion.

### V. Deletion Action

The EPA, with concurrence dated September 16, 2010, of the State of Delaware, through DNREC, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action noncontroversial and routine, EPA is taking it without prior publication. This action will be effective August 2, 2011 unless EPA receives adverse comments by July 5, 2011. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 29, 2011.

**James W. Newsom,**

*Acting Regional Administrator, Region III.*

For the reasons set out in this document, 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, 52 FR 2923, 3 CFR 1987 Comp., p.193.

■ 2. Table 1 of Appendix B to part 300 is amended by removing “DE”, “Coker’s Sanitation Service Landfills”, “Kent County”.

[FR Doc. 2011–13841 Filed 6–2–11; 8:45 am]

**BILLING CODE 6560–50–P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

#### **42 CFR Part 412**

[CMS–1346–CN]

**RIN 0938–AQ23**

### **Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System—Update for Rate Year Beginning July 1, 2011 (RY 2012); Correction**

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

**ACTION:** Correction of final rule.

**SUMMARY:** This document corrects two technical errors that appeared in the final rule published in the **Federal Register** on May 6, 2011 entitled, “Inpatient Psychiatric Facilities Prospective Payment System—Update for Rate Year Beginning July 1, 2011 (RY 2012).”

**DATES:** *Effective Date:* July 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Myrick or Jana Lindquist, (410) 786–4533.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In FR Doc. 2011–10562 of May 6, 2011 (76 FR 26432) (hereinafter referred to as the RY 2012 IPF PPS final rule), there were two technical errors that we describe in the “Summary of Errors” section and correct in the “Correction of Errors” section below.

##### **II. Summary of Errors**

In the RY 2012 IPF PPS final rule, on page 26452, in Table 11, we made a typographical error when we listed the diagnosis code “V451” rather than “V4512” for the description of comorbidity for chronic renal failure. In addition, we inadvertently omitted from Table 11 the comorbidity code “V4511” for chronic renal failure. These changes are not substantive changes to the policies or payment methodologies in the final rule. They are changes to conform the final rule to reflect the

correct policies, which were implemented on July 1, 2011.

### **III. Correction of Errors**

In FR Doc. 2011–10562 of May 6, 2011 (76 FR 26432), make the following corrections:

- On page 26452, in Table 11—RY 2012 Diagnosis Codes and Adjustment Factors for Comorbidity Categories, in the second column, with the heading “Diagnoses codes,” for the renal failure, chronic diagnoses codes, replace code “V451” with “V4512” and add code “V4511.”

### **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 in the rule.

Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of rules after the date of their publication in the **Federal Register**. This 30-day delay in the 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 notice merely corrects an error and omission in Table 11 of the RY 2012 IPF PPS final rule and does not make any substantive changes to the policies or payment methodologies. The correct policies were implemented on July 1, 2011. We are simply conforming the RY 2012 IPF PPS final rule to those policies by making the corrections identified herein. We believe that undertaking further notice and comment procedures to incorporate these corrections into the FY 2012 IPF PPS final rule and delaying the effective date of these changes is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay the dissemination of it. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774,

Medicare—Supplementary Medical Insurance Program)

Dated: May 27, 2011.

**Dawn Smalls,**

*Executive Secretary to the Department.*

[FR Doc. 2011-13839 Filed 6-2-11; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 100317152-0176-01]

RIN 0648-XA393

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

**ACTION:** Temporary rule; inseason general category retention limit adjustment.

**SUMMARY:** NMFS has determined that the Atlantic tunas General category daily Atlantic bluefin tuna (BFT) retention limit should be adjusted for the June through August 2011 time period, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action applies to Atlantic tunas General category permitted vessels and Highly Migratory Species Charter/Headboat category permitted vessels (when fishing commercially for BFT).

**DATES:** Effective June 3, 2011, through August 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin 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 (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006).

The 2011 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2011. The General category season, which was open for the month of January 2011, resumes on June 1, 2011, and continues through December 31, 2011. Starting on June 1, the General category daily retention limit (§ 635.23(a)(2)), is scheduled to revert back to the default retention limit of one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip. This default retention limit applies to General category permitted vessels and HMS Charter/Headboat category permitted vessels (when fishing commercially for BFT). Each of the General category time periods (January, June-August, September, October-November, and December) is allocated a portion of the annual General category quota, thereby ensuring extended fishing opportunities in years when catch rates are high and quota is available. For the 2010 fishing year, NMFS adjusted the General category limit from the default level of one large medium or giant BFT as follows: two large medium or giant BFT for January (74 FR 68709, December 29, 2009), and three large medium or giant BFT for June through December (75 FR 30730, June 2, 2010; and 75 FR 51182, August 19, 2010). NMFS adjusted the January 2011 limit to two large medium or giant BFT (75 FR 79309, December 20, 2010).

The 2010 ICCAT recommendation regarding western BFT management resulted in a 2011 U.S. quota of 923.7 mt (not including a 25-mt allocation that the United States uses to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area (NED)). Consistent with the allocation scheme established in the Consolidated HMS FMP, the baseline General category share would be 435.1 mt, and the baseline June through August General category subquota would be 217.6 mt. In order to implement the ICCAT-recommended baseline annual U.S. BFT quota, NMFS published a proposed rule that would modify the U.S. BFT quota and base subquotas for all domestic fishing categories, and establish BFT quota specifications for 2011 (76 FR 13583, March 14, 2011). Until the final rule is effective (likely mid-June 2011), the BFT base quotas codified at § 635.27(a) remain in effect. The currently codified General category quota is 448.6 mt, and the currently codified June through August General category subquota is 224.3 mt.

#### Adjustment of General Category Daily Retention Limit

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of three per vessel based on consideration of the criteria provided under § 635.27(a)(8), which include: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and a review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

NMFS has considered the set of criteria cited above and their applicability to the General category BFT retention limit for the June-August 2011 General category fishery. Based on General category landings rates during the June through August time-period over the last several years, it is highly unlikely that the June through August subquota will be filled with the default daily retention limit of one BFT per vessel. For example, under the three-fish limit that applied in June-August 2010, June-August landings were approximately 118 mt. This amount is less than both the 217.6 mt available under the 2010 ICCAT recommendation and the 224.3 mt available under the current regulations. NMFS expects landings from the General category in June through August 2011 to be within the available quota, once finalized. Furthermore, slow catch rates early in the season could result in unused quota being added to the later portion of the General category season. Increasing the daily retention limit from the default may mitigate rolling an excessive amount of unused quota from one time-period subquota to the next.

Based on considerations of the available quota, fishery performance in recent years, and the availability of BFT on the fishing grounds, NMFS has determined that the General category retention limit should be adjusted to allow for retention of the anticipated 2011 General category quota, and that the same approach used for June-August 2010 is warranted. Therefore, NMFS increases the General category retention limit from the default limit to three large