

§ 147.2200 State-administered program—Class I, III, IV, and V wells.

The UIC program for Class I, III, IV, and V wells in the State of Texas, except for those wells on Indian lands, Class III brine mining wells, and certain Class V wells, is the program administered by the Texas Commission on Environmental Quality approved by EPA pursuant to section 1422 of the Safe Drinking Water Act (SDWA). Notice of the original approval for Class I, III, IV, and V wells was published in the **Federal Register** on January 6, 1982 and became effective February 7, 1982. Class V geothermal wells and wells for the *in situ* combustion of coal are regulated by the Rail Road Commission of Texas under a separate UIC program approved by EPA and published in the **Federal Register** on April 23, 1982. A subsequent program revision application for Class I, III, IV, and V wells, not including Class III brine mining wells, was approved by the EPA pursuant to section 1422 of SDWA. Notice of this approval was published in the **Federal Register** on February 25, 2004; the effective date of these programs is March 26, 2004. The program for Class I, III, IV, and V wells, not including Class III brine mining wells, consists of the following elements as submitted to the EPA in the State's revised program applications.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made part of the applicable UIC program under SDWA for the State of Texas. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the materials that are incorporated by reference in this paragraph are available from the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington DC or at EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202.

(1) Texas Statutory and Regulatory Requirements Applicable to the Underground Injection Control Program for Class I, III, IV, and V Wells, except for Class III Brine Mining Wells, March 2002.

(2) [Reserved]

(b) *Other laws.* The following statutes and regulations, as effective on March 31, 2002, although not incorporated by reference except for any provisions identified in paragraph (a) of this section, are also part of the approved State-administered UIC program.

(1) *Class I, III, IV, and V wells.* (i) Title 30 of the Texas Administrative Code Chapters 39, 50, 55, 80, and 281.

(ii) Vernon's Texas Codes Annotated, Water Code, Chapters 5, 7, 26, and 32, Health and Safety Code Section 361, Government Code (ORA) Chapter 552 and Government Code (APA) Chapter 2001.

(2) [Reserved]

(c) *Memorandum of Agreement—(1) Class I, III, IV, and V wells.* The Memorandum of Agreement between EPA Region VI and the Texas Natural Resource Conservation Commission a predecessor to the Texas Commission on Environmental Quality (TCEQ), revised March 23, 1999, and signed by the EPA Regional Administrator on October 23, 2001.

(2) [Reserved]

(d) *Statement of legal authority—(1) Class I, III, IV, and V wells.* "State of Texas Office of Attorney General Statement for Class I, III, IV, and V Underground Injections Wells," signed by the Attorney General of Texas, June 30, 1998.

(2) [Reserved]

(e) *Program Description—(1) Class I, III, IV, and V wells.* The Program Description and any other materials submitted as part of the revision application or as supplements thereto.

(2) [Reserved]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[WT Docket No. 00-230; DA 04-75]

Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets

AGENCY: Federal Communications Commission.

ACTION: Final rule; delay of effective date, correction.

SUMMARY: We are correcting the DATES section of a document published February 12, 2004, which delayed the effective date of various rules adopted in the Secondary Markets Proceeding, WT Docket No. 00-230. We omitted a rule that should have been listed among the rules which were excepted from the delayed effective date. The corrected DATES sections follows.

DATES: The effective date of the rules published on November 25, 2003 at 68 FR 66252, except for the amendments to §§ 1.913(a), 1.913(a)(3), 1.948(j),

1.2002(d), 1.2003, 1.9003, 1.9020(e), 1.9030(e) and 1.9035(e), was delayed from January 26, 2004 to February 2, 2004.

FOR FURTHER INFORMATION CONTACT: Katherine M. Harris, Mobility Division, at (202) 418-0620.

SUPPLEMENTARY INFORMATION: This is a correction to the summary of the Commission's *Public Notice*, DA 04-75, released on January 15, 2004 which published at 69 FR 6920, February 12, 2004, to include § 1.948(j) in the previous listing of rules excepted from the delayed February 2, 2004 effective date. The full text of the *Public Notice* is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Federal Communications Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at <http://wireless.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365 or at bmillin@fcc.gov.

1. On October 6, 2003, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking*, 68 FR 66252 (November 25, 2003) in WT Docket No. 00-230. In the Matter of Promoting Efficient Use of Spectrum through Elimination of Barriers to the Development of Secondary Markets (Secondary Markets Report and Order). A summary of the *Secondary Markets Report and Order* portion of the *Further Notice of Proposed Rulemaking* prescribed that, except for §§ 1.913(a), 1.913(a)(3), 1.948(j), 1.2002(d), 1.2003, 1.9003, 1.9020(e), 1.9030(e), and 1.9035(e) of the Commission's rules, the various rules adopted in the *Secondary Markets Report and Order* were to be effective January 26, 2004.

2. In order to comply with the requirements of the Congressional Review Act under the Contract with America Advancement Act of 1996, see 5 U.S.C. 801(a)(3), the effective date of the rules that otherwise currently were to become effective on January 26, 2004 was delayed to February 2, 2004. The effective dates of §§ 1.913(a), 1.913(a)(3), 1.948(j), 1.2002(d), 1.2003, 1.9003, 1.9020(e), 1.9030(e), and 1.9035(e) of the Commission's rules are not affected by this extension of the effective date for all other rules adopted in the *Secondary Markets Report and Order*.

List of Subjects*47 CFR Part 1*

Administrative practice and procedure, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 27

Communications common carriers, Radio.

Federal Communications Commission.

Katherine M. Harris,

Deputy Division Chief.

[FR Doc. 04-4094 Filed 2-24-04; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 229**

[Docket No. 030221039-4062-05; I.D. 022004A]

RIN 0648-AQ04

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

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 ALWTRP's implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,896 square nautical miles (nm²) (6,503 km²), east of Portsmouth, NH. The regulations are effective for 15 days. The purpose of this action is to provide protection to an aggregation of North Atlantic right whales (right whales).

DATES: Effective beginning at 0001 hours February 27, 2004, through 2400 hours March 12, 2004.

ADDRESSES: Copies of the proposed and final Dynamic Area Management 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, 978-281-9328 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301-713-1401.

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) as well as to provide conservation benefits to a fourth non-endangered species (minke) due to incidental interaction with commercial fishing activities. 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 Dynamic Area Management (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 nm² (139 km²)) such that right whale

density is equal to or greater than 0.04 right whales per nm² (1.85 km²). 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 12, 2004, NMFS Aerial Survey Team reported a sighting of six right whales in the proximity of 42° 41.56' N lat. and 70° 02.03' W long. This position lies east of Portsmouth, NH. 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. Pursuant to this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15-day restricted period unless it is modified in the manner described in this temporary rule. The DAM zone is bound by the following coordinates:

43°03' N, 70°32' W (NW Corner)
43°03' N, 69°32' W
42°20' N, 69°32' W
42°20' N, 70°32' W

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern